

ENTIS - ROOSEVELT LETTERS

A SPIRITED DISCUSSION

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Col. Roosevelt's speech referred to on Page 17 was delivered in
the New York Republican State Convention at Saratoga, Sept. 27,
1910.

Address commencing on page 73 is substance of an address delivered
by Charles H. Betts before a meeting of the western New York
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CHARLES H. BETTS

Betts-Roosevelt Letters

A Spirited and Illuminating Discussion on a Pure Democracy, Direct Nominations, the Initiative, the Referendum and the Recall and the New York State Court of Appeals' Decision in the Workmen's Compensation Case

BY
CHARLES H. BETTS
Editor of *The Lyons Republican*

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DEDICATION

TO THE FATHERS, WHOSE WISDOM, STATESMANSHIP AND PATRIOTISM FOUNDED THE AMERICAN REPRESENTATIVE REPUBLIC—THE ONLY FREE REPUBLIC THAT EVER EXISTED—THIS WORK IS DEDICATED.

THE DEMAGOGUES

*Their heads with trifles well are filled,
In trifles they are deeply skilled;
And if some man, with sense endued,
Should in their presence be so rude
To speak like one who books has read,
And show he wears a learned head,
With anger fired they on him fall,
He's persecuted by them all.*

—Voltaire.

PREFACE

There is in this country a widespread movement to overthrow the American constitution and undermine and destroy our American system of representative government. The purpose of this movement is to supplant our system with what is known as a pure or direct democracy. The most conspicuous manifestation of this movement is the adoption of direct primary nominations, the initiative, the referendum and the recall in many states.

This movement is not progressive, but reactionary. It is a species of political atavism. It is a reversion to the diseases, disorders and deformities of the primitive political state. This whole movement, which is promoted largely by noise, is being carried on in blissfully ignorant disregard of the plain teachings of history and experience, and in bold defiance of the enlightened statesmanship of the civilized world.

Therefore, it has been deemed wise and timely, to present to the public in this form the Betts-Roosevelt letters, which contain a somewhat spirited and illuminating discussion of this whole subject.

There is so much general ignorance on this subject,—largely because there has been no systematic study of it,—that it is high time the American system of government was thoroughly discussed and its merits presented to the public in a true light.

For the purpose of aiding in this necessary work, the writer has added to the Betts-Roosevelt letters a large number of quotations on this subject from philosophers, statesmen, historians, scholars and students of political science, past and present. It is his aim to marshal and present to the reader the best thoughts and conclusions of the greatest thinkers of the world on the subject.

The writer hopes that these opinions, arguments and philosophical observations will throw an added light upon our system of representative government, and he is of the opinion that those who take the trouble to read the arguments and conclusions herein presented will gain a new appreciation of the American system of representative government, so wisely founded by the fathers of the Republic, who by the universal voice of posterity are admitted to have been a galaxy of the greatest statesmen ever assembled at a given time, to frame a constitution and found a government.

It was the great world renowned English statesman, William E. Gladstone, who speaking of the American constitution, said:

“It is the most wonderful work ever struck off at a given time by the brain and purpose of man.”

The writer believes that the American system is the best form of government ever instituted among men and that a pure or direct democracy is a primitive and impractical form of government, not adapted to this great nation, and that its establishment in this country would result in weak, inefficient and bad government, and thereby do irreparable injury to the whole country.

Therefore, he submits this little volume for the candid consideration of all intelligent and patriotic citizens.

CHARLES H. BETTS.

LYONS, N. Y., MAY 25, 1912.

INTRODUCTION

(Reprinted from 90th Anniversary Issue *The Lyons Republican*)

In this Ninetieth Anniversary of The Lyons Republican, we are printing letters of former President Theodore Roosevelt and the Editor of The Lyons Republican, Charles H. Betts, which will explain themselves.

Mr. Betts has always been a friend and great admirer of Colonel Roosevelt and stood with him and voted on the State Committee for him, and in the last Republican State Convention, when many of his old friends opposed him. Mr. Betts did not agree with Colonel Roosevelt on the question of direct nominations, yet he supported him in spite of this fact.

He, however, frankly told Colonel Roosevelt that he was against the proposition and he voted for the Wadsworth amendment to the platform in the Republican state convention. At the state convention, Colonel Roosevelt, after he was elected chairman, in his speech, came out openly in favor of a Pure Democracy and in addition to direct nominations he has since embraced and advocated the Initiative, the Referendum and the Recall, all of which are destructive of Representative Government.

In a recent article in the Outlook, Colonel Roosevelt vigorously denounced the decision of the New York State Court of Appeals in what is known as "The Workmen's Compensation Case," the Court having declared this law to be unconstitutional.

Mr. Betts, after reading this article in *The Outlook*, wrote Colonel Roosevelt a letter criticising his attitude on the question and especially his intimation that the courts should render decisions in harmony with public sentiment.

Colonel Roosevelt replied in his usual vigorous and emphatic style, defending his position and criticising the position taken by Mr. Betts, alleging that it was not his own position but the position outlined in Mr. Betts' letter which would "lead to revolution."

Mr. Betts replied in a long letter in which he vigorously defends the decision of the Court of Appeals and then takes occasion to express his own views, freely and frankly, without reserve, upon the governmental questions, on which he differs with Colonel Roosevelt.

The letters, in the order they were written, follow:

MR. BETTS' FIRST LETTER

LYONS, N. Y., May 13, 1911.

Col. Theodore Roosevelt,
The Outlook Office,
New York City.

My dear Colonel: I want to congratulate you upon the article which you wrote in a recent issue of *The Outlook*, entitled "Murder is Murder." I agree fully with the sentiments expressed in your article and you are entirely right when you say that the labor leaders are injuring their cause by the course they are pursuing in raising money as labor organizations to defend those charged with the crime of murder.

I have read, however, with regret your article in *The Outlook* of May thirteenth attacking the decision of the Court of Appeals and to the sentiments you express in that article I dissent as strongly as I approve of the sentiments expressed in the other article. If the time ever comes when the courts of this country interpret the laws in harmony with ignorant public sentiment, fanned into flame by uninformed and ignorant yellow journals, it will be a sad day for this Republic.

If the time ever comes when the courts through fear of public clamour, fanned into existence by muck raking reporters, render decisions not in harmony with the law and with precedent, but in harmony with public clamour, it will be a sad day for this Republic.

If the time ever comes when the courts for the same reason throw written constitutions into the waste basket and anarchy takes the place of constitution, law and order, it will be a sad day for this Republic, and to my mind any man who advocates such a course, however honest he may be, must of necessity be an enemy to the best interests of his country and to mankind.

The three requisites of good government are order, stability and progress. These essentials of good government can only be maintained by constitutions, law, order and a fearless judiciary. I have always had for you the sincerest admiration. I have not always been able to agree with you upon all public questions and particularly the question of direct nominations, but your attack upon the Court of Appeals and your intimation that in the future it may be necessary to force the courts to render decisions in favor of the views of particular men or the temporary sentiment of the hour and ignore consti-

tutions and laws in rendering their decisions, seems to me to go so far that even your intimate and sincere friends must not only regret your action, but dissent from your views.

I am one of those who believe in giving every other man the same right that I claim for myself, and that is the right to express his honest views. This is an age of intellectual hospitality and toleration is the rising sun of our twentieth century civilization. While I grant to you the rights which I claim for myself, yet I, so far as I am concerned, must do all that I can to combat the theory laid down in your article in *The Outlook* of May thirteenth, because I firmly believe that in the end it would lead to political anarchy and useless revolution.

With kind regards, I am, as always,

Your friend,

C. H. BETTS.

COLONEL ROOSEVELT'S REPLY

THE OUTLOOK

287 Fourth Avenue, New York

Office of Theodore Roosevelt, June 2, 1911.

My dear Mr. Betts: Really, it is hard to believe that you read my article on the Courts, because it is an absurdity to say that I had desired the Court to "render decisions in favor of the views of particular men or the temporary sentiment of the hour, and ignore Constitutions and law." My contention is that the Court of Appeals in this case rendered a decision simply in accordance with the temporary sentiments of certain particular men at this hour, and ignored the Constitution and laws, as Marshall always interpreted both Constitution and laws, and that their conduct was a most flagrant and wanton abuse of a great power, an abuse which, if continued, will render it the duty of all patriotic men to take steps that will at least minimize the chance of such action in the future. If the course I advocated in *The Outlook* is combated with permanent success, it will in the end bring about just what you say you fear, i. e., "political anarchy and useless revolution." It is simple nonsense to suppose that this country will tolerate permanently a line of action like that you are upholding on the part of the Court of Appeals. Isolated acts of the kind our people may tolerate from ignorance, but they would be unfit for self-government if they submitted permanently to such a course of

conduct; and if the position outlined in your letter was taken as a permanent course of policy, it would bring about a revolution. My plea is for rational growth; my plea is that the Court act with ordinary statesmanship, ordinary regard for the Constitution, as a living aid to growth, not as a straight jacket; ordinary regard for the laws, the rights of humanity, and the growth of civilization. I wish to state with all emphasis that no man who takes the opposite ground to that which I have taken in the article in question has any right to be on the bench; and it is a misfortune to have him there. Four Federal judges, of the United States' Courts, have written me since that article appeared, stating that they absolutely agree with it, that they regarded the action of the Court of Appeals of New York as so utterly reactionary as to be an invitation to revolution, and that they felt I was rendering a real and conservative public service in writing as I did. My dear Mr. Betts, have you forgotten that the Republican party was founded largely to protest against the very type of view concerning the Courts which you now uphold? Have you forgotten Lincoln's repeated strictures on the Supreme Court for the Dred Scott decision? That decision was worse in degree, but not in kind, than the one which I assail. Have you forgotten what Lincoln wrote in his first inaugural (in justifying the position he had repeatedly taken, that he would endeavor to secure a reversal of the Dred Scott decision—just as I wish this New York decision reversed): "If the policy of the government upon vital questions affecting the whole people is to be irrevocably fixed by decisions of the (court) * * * the people will have ceased to be their own rulers." I protest against this servile view merely as Abraham Lincoln protested.

Sincerely yours,

THEODORE ROOSEVELT.

MR. BETTS' REJOINDER

LYONS, N. Y., July 8, 1911.

Col. Theodore Roosevelt,
287 Fifth Ave., New York City.

My dear Col. Roosevelt: On my return from a several weeks' vacation, your letter of June 2nd is before me, and I am very glad to receive the same. I am always glad to read your vigorous and frank expressions of opinion, whether in a personal communication

or a public periodical, but it is a source of deep regret to me to be unable to agree with the opinions of a man whom I so much admire.

You say that four Federal judges have written you stating that your criticism of the decision of the Court of Appeals of New York State is correct. I have talked with a great many lawyers and judges, every one of whom expressed the opposite opinion. This only illustrates how honest men may differ, and proves conclusively that the opinions of men are as different and numerous as the leaves upon the trees. In your letter you say:

“Really, it is hard to believe that you have read my article on the Courts, because it is an absurdity to say that I had desired the Court to render justice in favor of the views of particular men or the temporary sentiment of the hour, and ignore constitutions and law. My contention is that the Court of Appeals in this case rendered a decision simply in accordance with the temporary sentiments of certain particular men at this hour, and ignored the constitution and the laws, as Marshall always interpreted both constitution and law, and that their conduct was a most flagrant and wanton abuse of a great power. An abuse which if continued, will render it the duty of patriotic men to take steps that will at least minimize the chances of such action in the future.”

IN HARMONY WITH THE CONSTITUTION

Passing over the implied threat contained in the last sentence that the Courts must render their decisions in harmony with public sentiment or suffer the consequences, let me call your attention to the fact that the decision of the Court of Appeals is in harmony with the Constitution of this State, and I can hardly conceive how you could make the statements which you have made, if you had read the full text of the Court’s decision.

Article 1, Section 2, of the State Constitution says:

“The *trial by jury* in all cases where it has been heretofore used shall remain inviolate *forever*; but a jury trial may be waived by the parties in all civil cases in the manner to be prescribed by law.”

This section of the State Constitution guarantees to every citizen the right to a hearing before a jury of his peers. The act of the legislature which the Court of Appeals declared unconstitutional took this right absolutely away from a certain class of citizens, who happen to be employers.

Section 219a of the act of 1910, provides for the scale of compensation an employer must pay to an employee's heirs when such employee is killed by an accident. This compensation is awarded by legislative fiat, without giving the employer a hearing before any court or before any jury.

Not only this, if the employer has obeyed the law, has provided the necessary safe-guards in his manufacturing establishment required by the factory inspection law, and all other law, and one of his employees is killed by his own negligence or carelessness, through his own fault and no fault of his employer, yet the employer must pay over a certain amount of his property to the widow or next of kin of the man who was killed in an accident through his own negligence or carelessness, and the innocent employer who has obeyed the law and who has committed no fault and is in no way responsible for the accident, under this statute is to have a part of his property taken away from him and given to another, without ever having a hearing in court or the justice of the claim against him passed upon by a jury. If this is not taking property in violation of the Constitution and without "due process of law," then words have lost their meaning and acts have been divorced from their consequences.

THE COURT'S OPINION

The learned court, in its decision, says:

"In all cases where there is a right to trial by jury there are two elements which necessarily enter into a verdict for the plaintiff:

First—The right to recovery.

Second—The amount of the recovery.

It is as much the right of a defendant to have a jury assess the damages claimed against him, as it is to have the question of his liability determined by the same body.

It is equally obvious it seems to us that it is the intention of the section of the Constitution (Art. 1, Sec. 2) to provide that in all controversies in the Courts of law either side should finally have a right to a jury trial on the question of liability, and however successful or unsuccessful jury trials may be in cases of employers' liability or any other cases, *the solemn mandate of the Constitution cannot be set aside.*"

These clear and emphatic words cannot be misunderstood by any intelligent citizen. They carry conviction to every open mind. The

decision of the Court of Appeals is in harmony with the Constitution, is sound in law, is sanctioned by justice and confirmed by reason and common sense.

And right here I wish to say, and I say it without fear of successful contradiction, that there is no place on earth, since the dawn of civilization, where the sacred goddesses of liberty and justice have so often met in fond embrace, as under the impartial folds of the ermine of an Independent Judiciary.

I will not stop here to discuss elaborately the decision of the Court of Appeals in the Workmen's Compensation case, and your attack upon that decision. I have both your article and a full text of the decision of the Court before me and I am preparing an article on that subject, which I shall publish later, in which I shall endeavor to do both you and the Court justice.

WOULD BRING ABOUT A REVOLUTION

In your letter among other things you say:

"If the position outlined in your letter was taken as a permanent policy, it would bring about a revolution."

In view of this charge I feel warranted in communicating to you freely, frankly and without reserve, my ideas. This is my justification for the length of this communication.

I have always been one of your devoted admirers, and nine times out of ten, I have been able to agree with you throughout your distinguished public career. I fully appreciate the great service which you have rendered to your country and to mankind, and I have always contended, and still contend, that you will take your place in history beside Washington and Lincoln.

Whatever difference of opinion we may have upon questions of government will never lessen in any degree my personal regard for you, or my appreciation of your magnificent achievements. You have done more than any other one man in this country to awaken public interest and quicken the public conscience and set in motion needed reforms, and for this you are entitled to the respect and esteem of every one of your fellow countrymen. But it does seem to me that in the last year you have been drifting away from the fundamental principles of our government and teaching doctrines inconsistent with our enlightened representative system.

You know that I have never been able to agree with you upon the question of Direct Nominations, and I was pained and surprised

to see you go so far as to advocate the Initiative, the Referendum and the Recall. I always supposed that you were a statesman of the Hamiltonian school, and if I know anything about the statesmanship of Hamilton, Direct Nominations, the Initiative, the Referendum and the Recall are as far from the teachings of Hamilton as the north pole is from the south pole.

TWO SCHOOLS OF STATESMEN

There have been in this country two different schools of statesmen. One school was founded and led by Hamilton, the other by Jefferson. Hamilton was one of the greatest creative and constructive statesmen the world has ever known. Jefferson was one of the most plausible phrase-makers and sophists.

I believe that these two schools of statesmen are necessary; that they were and are a necessary outgrowth of conditions. I regard Clay, Webster, Seward, Lincoln, Blaine, Conklin, McKinley, Lodge, Depew, Black, Root and Taft as the direct descendants of the Hamiltonian school of statesmanship. I regard Bryan, Borah, Bourne, Bristow, Poindexter, La Follette and Hearst as the direct descendants of the Jeffersonian school of statesmanship.

These two contending schools of statesmanship have ever been a check on each other and the conflict between the conservatism of the one and the radicalism of the other has resulted in a steady and reasonable progress. But there is one thing that I have always noticed in reading history and that is, when the phrase-maker and the sophist gets in office he is always obliged to discard his impractical theories and square his performance with the doctrines of the practical and constructive statesman.

For instance, when Jefferson became President of the United States, instead of putting his theories into practice, he was obliged to adopt the principles laid down by Hamilton, and Prof. Edward Elliott, in his splendid work entitled "The Biographical Story of the Constitution," in summing up Jefferson's career, very truthfully says:

"His success was in his faith, not in his works. From the standpoint of achievement in national affairs, only the Louisiana purchase saves him from *complete failure*; from the standpoint of political influence his faith in the people makes him a vital force in the world today. His greatest fault was that 'he died as he lived, in the odor of phrases.' His greatest virtue that he was wise enough to sacrifice phrases to reality, to accept in practice what he rejected in theory."

In direct opposition to his own teachings Jefferson put into operation the doctrines of Hamilton relative to the acquisition of new territory in the purchase of Louisiana, his only great achievement.

What a contrast the career of Hamilton presents. There is hardly anything of permanence in our institutions today that was not originally conceived by him. It was largely through his genius that the foundation of this Republic was laid so deep and broad that upon it has been reared the grandest governmental structure the world has ever known. In speaking of Hamilton, Daniel Webster said:

“He smote the rock of the national resources and abundant streams of revenue gushed forth; he touched the dead corpse of Public Credit and it sprang upon its feet.”

Prof. Edward Elliott, speaking of Hamilton's statesmanship, says:

“The great passion of Hamilton's life was love of an *orderly direction in human affairs*; mankind in the mass he regarded as weak, and the weakness demanded the strength of government if the human race was to enjoy the blessings of liberty. A strong government was necessary to restrain the natural disorders of society, whatever the character of its organization. Order and strength were inseparable in all his thoughts of government, his practical experience had demonstrated that social disorder and governmental weakness were correlative terms and the *verdict of history has confirmed his experience.*”

Frederick Scott Oliver, an English writer, in his great work declares that Hamilton was a world statesman. He says:

“The qualities of his statesmanship, the nature of that inarticulate desire for Union on which he built the strength and obstinacy of those difficulties which he encountered at every turn, are subjects of universal interest. He is no local hero, but one whose work and greatness has a meaning for the Whole World.”

Now, my dear Col. Roosevelt, it seems to me that the descendants of the Hamiltonian school have been keeping step with the onward march of civilization and progress, but they propose to go only so fast as they can go and remain within the line of reason, of law and of the Constitution. On the other hand it seems to me that the descendants of the Jeffersonian school have become so radical that they are willing to supplant reason with hysteria and leap over the law and the Constitution into the maelstrom of Democratic Socialism.

It is this head-long course, away from the fundamental principles of representative government into the Populistic schemes of Direct Nominations, the Initiative, the Referendum and the Recall, which in the last analysis means Democratic Socialism, against which I protest and shall forever fight.

I still believe in our enlightened system of representative government, and I believe that it has been the greatest success of any government that was ever instituted among men, and I appeal to the history of this country to prove it. I contend that wherever the machinery of our representative government has been clogged or deranged, it has not been the fault of the system, but it has been the fault of men. It has been the fault of human nature. It has been the weakness and wickedness of men that has deranged our system wherever it has been deranged, and no system of government will produce perfect results with imperfect human nature.

Not only this, but Direct Nominations, the Initiative, the Referendum and the Recall, open a wider field for the exhibition and display of the very weakness and wickedness of which you and others now complain. Under this system the very elements in human nature which have been responsible for clogging and deranging temporarily in some cases our present system, will have a larger field for activity, and will multiply our present evils a hundred fold.

THE TWO POSITIONS DEFINED

You say that the doctrines which I teach will lead to revolution, while I contend that it is you who are sowing the seeds of revolution. My conception of the difference between your position and mine is this: I am, in my feeble way, endeavoring to teach the people that it is always wiser, safer and better for them to take the sober second thought, act on full and correct information, and then follow the steady, white light of Reason.

On the contrary, it seems to me that you are trying to teach the people to act on sudden impulse and uninformed surface sentiment and follow the flickering, fleeting flame of temporary Emotion.

I cannot agree with you when you say that a Judge who will render a decision such as that rendered by our Court of Appeals has "no right to sit upon the bench." My opinion of the Court of Appeals of the State of New York is more accurately reflected by the distinguished Justice Harlan, who, in a recent speech to the legislature, said that the decisions of the New York State Court of Appeals were

always received by the United States Supreme Court with high respect and great consideration.

In your letter you express your opinions frankly and with great force and emphasis. I respect you for doing this. I have always admired you for having the courage to tell exactly what you think, and I could not respect myself if I did not follow your example in this regard.

Therefore, permit me to say, that when you returned from Europe and received the greatest ovation ever tendered to an American citizen, you at once ignored the honest advice and kindly warnings of your sincere and life-long friends, including the writer, and surrounded yourself with the Hughes high-brows and the Abbott theologians and courageously assumed all the burdens of both aggregations. You allowed them to place upon your strong and powerful back all of their theories, fads, fallacies and fancies, since which time you have been out of touch with the real political situation in this country. For a confirmation of this statement consult the last election returns.

In this state you made an ethical and brilliant appeal to the people. Murphy made a strong cash appeal to the same people and on account of their high intelligence and extreme virtue, Murphy won.

In this connection I wish to say, despite all of his influence, with a *silver lining*, Murphy could not have won if he had been confronted by four years of the solid achievements of a Republican *party* administration, instead of four years of executive *personal* exploitation. It was the reaction from the excesses and horrors of the French Revolution that resulted in the restoration of the Bourbon kings, and it was the reaction from the excessive party treason and fake reforms of the Hughes administration that resulted in the restoration of Tammany Hall, and for the first time in our history, has extended the power of that corrupt organization over the entire state, so that at this moment we are in the center of an era of political piracy, spoliation and plunder, such as the state has not witnessed since the days of Tweed.

ROOSEVELT'S SPEECH AT CONVENTION

At the last Republican State Convention at Saratoga, you made the statement in your speech that those who favor direct nominations *trust* the people, while those who do not favor direct nominations *do not trust* the people. This is the *exact opposite* of the facts.

Let us examine this proposition for a moment. We who believe

in the system of representative government, do trust the people. We trust them to act for themselves within the circle of activity where they can obtain correct information to act upon.

We are in favor of trusting the people to pick out their candidates and their delegates in their immediate community, in their village, their town or their ward, where they know the reputation, character, standing, ability and general fitness of the men whom they are to select as representatives.

In other words, we are willing to trust the people to exercise their intelligence where they have the information to exercise their intelligence on. But those who believe in direct nominations do not so trust the people. They say that the people *cannot be trusted* to use their own personal knowledge and personal information in regard to selecting delegates in their own communities where they have accurate information.

They contend that this system of government has *broken down* and proved a *failure*, and therefore they propose a system whereby the people shall be called upon to act *beyond the sphere* where they can get accurate information and have personal knowledge, and they contend that the people can act more intelligently and wisely by *guessing* what is the best thing to do, than by *knowing* what is the best thing to do.

For let it be remembered, the people *can know when they have correct information* and they cannot know *without such information*.

If the people cannot intelligently and properly select delegates in their towns and wards, in their immediate vicinity, where they have the advantage of personal acquaintance, personal knowledge and correct information about the character, standing and fitness of the delegates to be selected from their friends and neighbors, then how in the name of common sense are they to make an intelligent and wise selection of candidates 10 and 20 and sometimes 100 and 300 miles away, under direct nominations, where the people are *absolutely deprived of the advantage of personal acquaintance and reliable information*?

To argue that the people can select candidates hundreds of miles away, whom they have never seen and have only *second-hand and conflicting* information about better than they can select delegates in their own towns, from their friends and neighbors, with whom they are personally acquainted, and about whom they have accurate information, is to argue an *absurdity*. It is arguing to the effect that lack

of any knowledge whatever is a better guide than personal knowledge and that *darkness is a better and more reliable guide than light.*

It is a recognized law of psychology that accuracy of perception grows less as the square of the distance increases. Objects beyond our reach, like candidates miles away, and like the clouds, are not truthfully pictured. The senses deal correctly only with the near and familiar. Therefore, direct nominations is in conflict with the science of psychology and the laws of nature.

On the other hand, the representative delegate system, which provides that the people shall select their delegates from small civil divisions—consisting of a town or a ward where they have personal knowledge and first-hand information upon which to base their action, is in harmony with political, social and psychological science.

It was the consideration of these facts that led the wise framers of the Federal Constitution to make this a Representative Republic, instead of a Pure Democracy. They knew the people could not act intelligently and wisely *beyond the sphere* where they could get first hand, reliable and accurate information to act upon, and so they provided that in that *distant sphere* the people should act through representatives selected from their local friends, neighbors and prominent citizens. *Their wisdom has never been excelled.*

One of the stock arguments of our modern demagogues is that the people are directly interested in the government and in the legislation, and therefore they should directly legislate and administer the government. This is plausible, this sounds fine, but I have noticed that while the people are also directly interested in their health, they employ a trusted, experienced and informed physician to treat them when they are ill. When they have a law suit they employ a trained and experienced lawyer, in whom they have confidence, to try their case.

Notwithstanding the fact that they are directly interested in their health and in winning their law suit, they have the intelligence and the judgment to realize that he who is fitted to try their law suit and treat their disease, must be someone who has specially fitted himself for that purpose, and this is no more true than it is that those who engage in legislation and government should be equally trained and qualified by ability, experience and information to understand and comprehend the intricate sciences of legislation and government.

In his great speech delivered in the New York State Convention, Hamilton said:

“It has been observed that a pure Democracy, if it were practical, would be the most perfect government. EXPERIENCE HAS PROVED THAT NO POSITION IN POLITICS IS MORE FALSE THAN THIS. The ancient democracies, in which the people themselves deliberated, never possessed one feature of good government. Their very character was tyranny, their figure deformity. When they assembled the field of debate presented an ungovernable mob, not only incapable of deliberation, but prepared for every enormity. In these assemblies the enemies of the people brought forward their plans of ambition systematically. They were opposed by their enemies of another party; and it became a matter of contingency whether the people subjected themselves to be led blindly by one tyrant or by another.”

And again, Hamilton, who was acquainted with history, and who knew that direct popular government and attempted mass action was the rock upon which all of the ancient Republics were wrecked, and that too much democracy leads to despotism and then to monarchy said:

“Real liberty is never found in despotisms, or the extremes of democracy, but in moderate governments. As long as offices are open to all men, and no constitutional rank is established, it is PURE REPUBLICANISM. *But if we incline too much to Democracy, we shall soon shoot into a Monarchy.*”

HAMILTON AND JEFFERSON AGREE

Although Hamilton and Jefferson represented opposite schools of statesmanship, yet they both agreed that a Representative Republic was the only form of government adapted to a large territory and large population, and so Jefferson said:

“Let us then, with courage and confidence pursue our own Federal and Republican principles, our attachment to Union and *Representative government.*

* * * * *

“If there be any among us who would like to dissolve this union, or change its Republican form, let them stand undisturbed as monuments to the safety with which error of opinion may be tolerated when Reason is left free to combat it.”

I predict that in the not distant future the people of this country will awaken to a realization of the fact that the *wisdom* of the fathers who founded this Republic, is a more reliable and trustworthy guide than the *noise* of their sons.

It is not systems that make men, it is men that make systems. It is not systems and laws that inject into the human heart dishonesty, vice, viciousness and corruption, neither can systems and laws eliminate these elements from human nature. Reform must commence within the individual and it can take place nowhere else.

These are plain, simple facts which can be readily understood and comprehended by the ordinarily intelligent school boy. And yet, they are facts which are overlooked by our skirt-dancing politicians, moving picture statesmen and vaudeville demagogues. And that is what is the matter with the country. It is not the representative system, but it is the *methods employed* by the dishonest or the ignorant and uninformed who are trying to administer the system. The people should have intelligence enough to select able and honest representatives. This is all that is needed, and if they cannot select good delegates *at home* under our present system, they certainly cannot select good candidates *away from home*, under direct nominations.

TELL THE PEOPLE THE TRUTH

Let us be honest with the people. Let us tell them the truth. Let us not flatter them and tell them that they are all right and their representatives all wrong, because this is not the case. If you were sick and called a doctor you would want him to tell you the truth, and if he were honest he would do so. You would not want him to flatter you and tell you that you were all right and let the disease devour you, but that is the course pursued by many of our modern demagogues.

They are telling the people that they are all right, but that their system of government is all wrong, when as a matter of fact, the fault is in the people themselves and not in their government. If the people were all honest, were all unselfish, were all intelligent and thoroughly civilized, there would be no trouble in working the machinery of our government, and there would be no trouble in selecting from their number, honest, faithful and conscientious representatives to administer the government.

It is not the system of government that is at fault; it is the sus-

tem of human nature, and to try to reform the people by *changing* their free representative government is as absurd and ridiculous as it would be to try to reform the people by *changing the cut of their clothes*.

A simple or pure democracy mixes intelligence and ignorance, folly and wisdom, vice and virtue, inexperience and experience, demagogic and statesmanship altogether in hopeless confusion and the *bad neutralizes the good and pulls both the intellectual and moral standard down to the dead level of mediocrity*, but when we engraft upon a pure democracy the representative system, we then enable the people to pick out men of character, experience, wisdom and statesmanship, wherever they can be found, and assemble them in a representative body—in a legislature or a convention, where they can act for the public good.

In this way, by this system of government, action can be obtained on a higher level and a more intelligent basis, than it can be obtained by the great mass of people acting for themselves.

Not only this, but such representatives are always in a position to obtain important facts and valuable information that the masses of the people could never obtain in the necessary time for governmental action. Let me illustrate. When you were President, you were in possession of important facts and valuable information, which led you, as the people's representative, to take Panama.

Suppose you had been obliged to wait for the people to obtain and assimilate and understand all the facts in your possession, and then wait for the people to take the initiative, do you think we would ever have had Panama? And suppose you had been obliged to submit the whole proposition to the Referendum, do you not know that under such a system the Panama Canal, which is now being constructed and will soon be completed, would forever have remained the *dream* of the American statesman.

Montesquieu had a clear conception of the science of government when he said:

“As most citizens have sufficient ability to choose, although unqualified to be chosen, so the people, though capable of calling others to account for their administration, are incapable of conducting the administration themselves.

“The public business must be carried on with a certain motion, neither too quick nor too slow. But the motion of the people is always either too remiss or too

violent. Sometimes with a hundred thousand arms they overturn all before them; and sometimes with a hundred thousand feet they creep like insects.

When this direct nominations theory, and all of the other Populist theories, are reduced to the last analysis and subjected to the light of reason, their fallacies fade and vanish one by one like dew before the shining sun.

In closing the discussion on this point, let me make myself clear, let me make myself explicit.

I contend that to favor the present system which permits the people to select their delegates or representatives in their own towns and wards, where they have the *benefit of the light* of experience, personal acquaintance, personal knowledge and full and reliable information about such representatives, *as I do*, is to place absolute confidence and trust in the people and in their intelligence and their judgment.

I further contend that to favor the changing of this system so as to *extinguish the light* of experience, personal acquaintance, personal knowledge and full and reliable information about such representatives, *as you do*, and require the people to select candidates in the dark, hundreds of miles away, by the scheme of direct nominations, is to *distrust and discredit the people, and insult their intelligence by contending that they can act more wisely in the dark than they can in the light.*

WOODROW WILSON'S BAD EXAMPLE

I have confidence in the open mindedness and sincerity of the American people; I believe that they love their country, that they are patriotic and that they want to know the actual truth about all public questions. Therefore, I have no sympathy with the cowards in public life, who advocate what they do not believe and what they know to be wrong, simply because it is temporarily popular, and who support measures against their clear convictions and honest judgment.

Woodrow Wilson, when he was President of Princeton University, when he was a scholar, thinker, statesman and philosopher, writing of direct popular government as involved in Direct Nominations, the Initiative and the Referendum, said:

“Where it (the Referendum) has been employed it has not promised either progress or enlightenment, leading rather to doubtful experiment and to *reactionary displays of prejudice*, than to really useful legislation.

"A government must have organs; it cannot act inorganically, by masses. It must have a law making body; it can no more make law through the voters than it can make law through its newspapers."

Later, after he had been elected to office and he became ambitious to be nominated for president, he began to trim his sails to catch the popular breeze, and while on a recent stumping tour, speaking as a politician instead of a statesman, as a demagogue instead of a philosopher, he said:

"To nullify bad legislation the Referendum must be adopted, and it is only a question of time until it will be extended to the nation."

Let us not imitate Woodrow Wilson. Let us not be hypocrites to obtain a public office. Let us not strike a dramatic "holier than thou" attitude, roll our eyes to Heaven, and with honeyed words of flattery on our lips and deception and hypocrisy in our hearts, preach what we do not believe.

Let us not waste our time preaching about "moral uplift," but let us get down to business and preach the good old fashioned doctrine of *common honesty*. We can rear splendid ideals on the foundation of common honesty, but we can never rear high ideals on the foundation of hypocrisy.

This leads me to the observation that hypocrisy is the cancer that is eating honesty out of the heart of humanity. The best way to reform humanity is to have a surgical operation and remove the malignant growth.

The man who sells his honest convictions for an office is as dishonest and as dishonorable as the man who sells his vote for money. He is more dishonorable than the poor man who sells his vote, because he needs the money. Honor purchased with the usury of self respect is not worth having; honor bought with the sacrifice of honest convictions becomes a badge of infamy.

COMPOSITION OF THE PUBLIC

I know that it is the modern fashion to flatter the people, to fool the people and make them believe that they know all about the science of government, but notwithstanding this I have no illusions about the public. I know exactly of what it is composed. It is composed of the intelligent and the ignorant, the virtuous and the vicious, the honest and the dishonest, the patriot and the hypocrite, the Chris-

tian and the criminal, the fool and the sage, the politician and the demagogue, the "floater" and the statesman.

I also know that the people's representatives sometimes betray their trust, but I make the contention that the per cent. of honest representatives in the political world is as large as the per cent. of honest representatives in any other field of human activity. I make the further contention that the per cent. of honest men among the people's representatives is higher than the per cent. of honest men among the people themselves, because the representatives are men of more than average ability, standing and character, and are selected for this reason.

Take the case of Ohio. To be sure, a few of the members of the legislature seemed to have been guilty of bribery, but what about Adams county, where over one-half of the voting population have confessed that they were corruptionists on election day and have been disfranchised on that account. How many of the voters have not confessed, and how many Adams counties are there in the United States?

I know something about the history of the world as it is written in rocks and books. I know that man is an animal who has become polished, refined and rendered kind, generous and attractive by the veneer of civilization, and that under this veneer, liable to be fanned into activity at any time, lies dormant all of the brutal instincts bequeathed to him by a savage ancestry. I am familiar with the outbursts of human temper, the hurricanes of human passion, and the whirlwinds of human brutality, as they are recorded in the pages of history. I know that it was the ignorance, bigotry and barbarism of the people that kept the horizon lurid with the fagot's flame for a thousand years and deluged the earth with human blood. I know something about mobs and lynchings in our own day, and yet I agree with that profound political philosopher, Edmund Burke, when he says:

"Man is a most unwise and a most wise being. The individual is foolish. The multitude, for the moment, are foolish, when they act without deliberation, but the species is wise, and when time is given to it, as a species, it almost always acts right."

I fully realize that we have been passing through a transition period and that the people temporarily have allowed the sensational journals and the political demagogues to lead them from the serene

heights of sanity into the dismal swamp of hysteria, where, with their feet resting on the ever yielding foundations of muck and environed by fog and noise, the people have reached a mental attitude where they are more easily attracted by the sophistry and cheap cure-all promises of the demagogue than by the solid arguments and sound logic of the statesman. This is the cause of more than half our present ills, but in the East can now again be seen the rising sun of Reason, whose rays have already illuminated the decision of the United States Supreme Court.

Those who tell the people that they know all about the science of legislation and government, might as well go a step further and tell them that they know all about the science of geology, of chemistry and of astronomy; one is as reasonable as the other.

A man must serve an apprenticeship to even become a blacksmith, but the theory is broad, and seems to be popular, that it requires no preparation to become a *maker of laws and constitutions*. The theory is seriously promulgated; that the ignorant Italian who has just been naturalized in order to sell his vote, is as competent to engage in the science of legislation and the administration of government, as the trained statesman with half a century of accumulated experience, knowledge and wisdom. What a ridiculous theory! It should be advanced only for the purpose of flattering fools! *I challenge the correctness and sanity of this theory and stand ready to debate it with any man on earth.*

MUST DEAL WITH PEOPLE AS THEY ARE

I wish to take this occasion to say that with your patriotic desire to improve the social and political conditions of the great mass of our fellow citizens, I am in hearty sympathy. But if we are to accomplish results we must view the situation as it is and not as we would like to have it.

We must deal with people, conditions and nature as they are and not as we would like to have them. We must be wise enough to use the instrumentalities at hand to accomplish practical and beneficial results and make a gradual and steady improvement in social and political conditions along the line toward our ideals.

But in order to do this, we must have a clear and correct comprehension of the fundamental laws of life and society and we must be able to understand the mighty forces that are carrying us onward to improvement or decay. The real fact is that the Giant of Civilization

is marching onward and upward with a "fool killer" in each hand, and the slaughter of the weak, the incompetent, the inefficient, is something frightful and indeed heart rending.

But we cannot stay the cruel blows by multiplying abortive laws upon our statute books or engaging in reckless criticisms of our Courts and our system of government. Neither can we improve conditions by fanning the flames of passion and working the people into a state of hysteria. This only results in making the people discontented and still more miserable.

I agree with Prof. Jordan when he says:

"The history of human thought is filled with the rise of doctrines, laws and generalizations, not drawn from human experiences and not sanctioned by science. The attempt to use these ideas as a basis of human action, has been a fruitful source of Human Misery."

The brilliant Lecky truthfully pictured modern conditions when he said:

"The constantly increasing tendency, whenever any abuse of any kind is discovered, is to call upon Parliament to make a law to remedy it. Every year the network of regulation is strengthened; every year there is an increasing disposition to enlarge and multiply the functions, powers and responsibilities of government. I should not be dealing sincerely with you if I did not express my opinion that this tendency carries with it dangers even more serious than those of the opposite exaggeration of a past century; dangers to character by sapping the spirit of self reliance and independence, dangers to liberty by accustoming men to the constant interference of authority and abridging in innumerable ways the freedom of action and choice."

In my opinion we should turn our attention to teaching the people the lesson of self-reliance and self-control. We should teach them to educate, improve and reform themselves. We should teach them to form habits of industry, sobriety and frugality. We should teach them to obtain correct information before acting and then adopt reason as their guide, to the end that they may become strong and efficient and thereby better fit themselves for the struggle of existence under our modern complex social conditions and rapidly changing industrial development. *In this direction lies the path of True Reform.*

WE ARE IN A VERY LARGE WORLD

Let me suggest to you, my dear Col. Roosevelt, that we are living in a very large world, which is filled to overflowing with all kinds of conflicting theories, and it is no easy task for any man to pick out the true from the false, the sound from the unsound.

Therefore, we should be charitable in our opinions. We should cultivate the mental attitude of intellectual hospitality. We can, however, always be sure of one thing and that is this: No man has a corner on either wisdom or virtue. There is no monopoly in the republic of ideas—no trust in the world of morals.

The storehouses of wisdom and virtue are open to all alike; everybody is at liberty to partake to the limit of their ability and capacity. If a man has not a liberal supply of talent, wisdom and virtue, he has no one to blame for it except himself, and possibly nature, who fixed his mental and moral limitations. He certainly can not lay the blame upon the government, or upon the people's representatives, as is so often done.

Nature distributes her gifts with a secret and subtle hand, and we can no more change nature's distribution of talents, wisdom and virtue by law, than we can change her distribution of physical form and beauty.

We are fond of saying that all men are created free and equal, but the fact is there are only two periods in life when men are equal. The first is when they enter this world through the gate of Eternity; the second is when they leave this world through the same gate. Between the two Eternities they are all unequal, because nature has made them so.

“There is equal voice only among the dumb; equal minds only among the fools; equal success only among the failures, and equal strength only among the dead.”

All that any man can ask of the government is to give him equal protection and equal opportunity. His success or failure will then depend upon himself.

I wish to again assure you that I sincerely regret that I cannot agree with you upon these questions under consideration. I regret that you have embraced doctrines which I cannot accept, but I would not surrender my honest convictions upon these fundamental questions of government, for all of the offices within the gift of the American people. I do not need the offices, but I do need my self-respect.



COL. THEODORE ROOSEVELT

I do not need public applause, which at best is as fleeting as the dew drops, but I do need an abiding consciousness that I have been true to myself, true to my honest convictions, and that I have never stained my soul with the crime of hypocrisy. In other words, I would rather be a martyr to the cause of truth, than a king on the throne of Error.

With kind regards, I am,

Sincerely your friend,

CHARLES H. BETTS.

COLONEL ROOSEVELT'S REJOINDER

287 Fourth Avenue, New York

Office of Theodore Roosevelt, July 11, 1911.

My dear Mr. Betts:

I thank you for your long and interesting letter, both for what it contains and the way it is written. With much that you say I of course entirely agree, although I must also say that I do not withdraw the opinions I expressed in my former letter.

With all good wishes,

Sincerely yours,

THEODORE ROOSEVELT.

REPRESENTATIVE GOVERNMENT A NECESSITY

So long as we have manhood suffrage, so long as we balance the head of the illiterate against the head of the intelligent and educated, so long as we balance the head of the fool against the head of the trained, experienced and enlightened statesman; so long as we balance the empty head of the boy of twenty-one against the head of the political sage and philosopher with half a century of accumulated wisdom, just so long must we have legislation and government by representatives—by representatives chosen on account of their standing, experience, character and ability, as well as their training, fitness and skill for the particular duties which they will be called upon to perform. These representatives must be selected by the masses, who, if it were not physically impossible for them to act for themselves, which *it is*, have neither the training, the knowledge or the capacity to engage in the complicated and technical conduct of the details of legislation and of government.

CHARLES H. BETTS.

Speech at Lyons, October 9, 1910.

AMERICAN REPRESENTATIVE DEMOCRACY

vs.

A PURE OR DIRECT DEMOCRACY

The quotations presented in this chapter, giving the thoughts, opinions, arguments and conclusions of distinguished political philosophers, scholars, historians, statesmen and students of the science of government, past and present, will be of interest to every student of political and governmental history and will shed much light upon the two systems of government known as a representative democracy, and a pure or direct democracy.

It will be observed, that not only the enlightened statesmanship of the world, but the scholarship as well, are on the side of a representative democracy as against a pure democracy. History, experience, common sense and the laws of nature are also on the side of a representative democracy as against a pure democracy.

A pure democracy is analogous to life in the most simple, unorganized protoplasmic stage.

A representative democracy is analogous to life in the most highly organized, perfectly developed and efficient stage.

We invite the reader's attention to this array of high and distinguished authorities.

THE FUNDAMENTALS OF A REPUBLIC

Charles Pickney, speaking in favor of the adoption of the constitution, said:

"The doctrine of representation is the fundamental of a republic."

THE RULE OF REASON

Reason has a natural empire, we resist it, but it triumphs over our resistance; we persist in error for a time, but we always have to return to it.

MONTESQUIEU.

Spirit of the Law.

NOT A PURE DEMOCRACY

This country is a representative country and not a pure democracy. The latter would be unworkable in a country of this magnitude. Except with regard to fundamental questions, or matters comparatively simple, it is impractical for the electorate to directly express its views.

FORMER GOV. CHARLES E. HUGHES.

NOT SO BAD AS A NATION

As a Nation we are not as bad as we declare ourselves to be. Individual reputations are being talked up by talking down others. Men seem possessed to establish their own individual virtue as if they had been charged with its absence.

JOB E. HEDGES.

Common Sense in Politics,
p. 240.

THE ONLY GOOD GOVERNMENT

In a large society inhabiting an extensive country, it is impossible that the whole world should assemble to make laws. The first necessary step, then, is to depute power from the many to a few of the most wise and good. There is no good government but what is Republican.

JOHN ADAMS.

Thoughts on Government.

THE LAW

The law, therefore, to a certain extent, should correct national tendencies. It should be loved a little because it is felt to be just, feared a little because it is severe, hated a little because it is to a certain degree out of sympathy with the prevalent temper of the day, and respected because it is felt to be necessary.

EMILE FAGUET.

The Cult of Incompetence, p. 69.

AMERICAN DEMOCRACY vs. MOBOCRACY

The clamor now is heard that the organization of American Democracy, such as the Republic has known for a century and a quarter, must be altered, torn asunder, under the pretense that the people do not govern with sufficient directness. Let us hope that the clamor is but a passing ebullition of feeling.

Democracy, Yes! Mobocracy never. And toward mobocracy we are now bidden to wend our way. The shibboleths of the clamor, the Initiative, the Referendum and the Recall, put into general practice, as the evangelists of the new social gospel would fain have them, are nothing more nor less than the madness of Democracy.

ARCHBISHOP IRELAND.

*Speech Council Bluffs,
Iowa, Oct. 11-1911*

EXTENT OF COUNTRY

Extent of country, in my conception, ought to be no bar to the adoption of a good government. No extent on earth seems to me too great, provided the laws be wisely made and executed. The principles of representation and responsibility, may pervade a large, as well as a small territory.

EDMUND RANDOLPH.

Speech in Virginia Convention, June 6, 1788.

CONSTITUTIONAL LIMITATIONS

To what purpose are limitations committed to writing, if those limits may at any time be passed by those intended to be restrained? The distinction between a government with limited and unlimited powers is abolished if those limits do not confine the persons on whom they are imposed.

JOHN MARSHALL.

*From Opinion in Marbury vs. Madison,
1 Cranch, 137.*

THE PERFECT RULER

To discover the perfect ruler for human society we must find a superior intelligence who has seen all the passions of man but has experienced none of them, who has had no sort of relations with our nature but who knows it to the core, whose happiness is not dependent on us, but who wishes to promote our welfare, in a word, one who aims at a distant renown, in a remote future, and who is content to labor in one age and to enjoy in another.

ROUSSEAU.

Social Contract.

NOT KNOWN TO THE ANCIENTS

One thing is very certain, that the doctrine of representation in government was not known to the Ancients. Now the knowledge and practice of its doctrine is, in my opinion, essential to every system, that can possess the qualities of freedom, wisdom and energy.

To control the power and conduct of the legislatures by an overruling constitution, was an improvement in the science and practice of government reserved to the American states.

JAMES WILSON.

Speech in Pennsylvania Convention, Nov. 26, 1787.

NO EQUALITY IN MINDS

Whatever efforts a people may make, they will never succeed in reducing all the conditions of society to a perfect level; and even if they unhappily attain that absolute and complete depression, the inequality of minds would still remain, which coming directly from the hand of God, will forever escape the laws of man.

DE TOCQUEVILLE.

Democracy in America p. 146.

FATHERS OF THE REPUBLIC

It becomes us, Sir, in my humble opinion, to approach this subject with the profoundest reverence for this Constitution, as the work of that illustrious body of patriots and statesmen, who seem to have been raised up by Providence, at that peculiarly eventful period, to guide by their eminent wisdom and exalted public virtue, the councils of that convention, the result of whose deliberations was to fix the future destinies of this great empire of freedom. They were men originally highly gifted by nature and deeply versed in political knowledge; they had been educated in the principles of civil liberty, and well understood the temper and genius of their country, its interests, and the spirit of its institutions. For sound views of the theory of government, just application of political principles and as the purest models of eloquence, the public papers of the statesmen of our revolution have never been excelled and will long remain unrivalled.

HENRY R. STORRS.

Speech in House of Representatives, Feb. 17, 1826.

SELF-CONTROLLED REPRESENTATIVE DEMOCRACY

The Republican Party of New York, in State Convention assembled, hereby declares its faith in those fundamental principles of government established in the United States by the adoption of the Constitution.

We believe that this is a self-controlled representative democracy, as illustrated by the entire course of our national experience.

We believe that order is the prerequisite of progress, and that this national tradition must not be destroyed nor principle be sacrificed to opportunism.

We believe that the guarantees of the Bill of Rights, as incorporated in the Constitution of the United States for the protection of each citizen, even if threatened by a temporary majority, shall be forever preserved.

NEW YORK STATE REPUBLICAN PLATFORM.
Adopted at Rochester, April 10, 1912.

A BREEDER OF CORRUPTION

In small places, where every body knows each other, direct nomination is not attended with any difficulties; but in the large cities the electors are so numerous that they do not know the good candidates any more than the bad ones,—the latter are even better known. This system, therefore, has in no way, curtailed the power of the wire pullers, nor encouraged candidates of a superior stamp to court the suffrages of the primaries. Fraud and corruption flourish in the direct primaries as elsewhere. Corruption is even more rife in them.

OSTROGORSKI.

Works, Vol. 11, p. 532.

A FUNDAMENTAL POLITICAL PRINCIPLE

Another fundamental among political principles which experience has confirmed is representative government. There is no doubt that an enthusiastic and able propaganda against representative government by appealing to the sentiment called the people's will has made great progress. There is no doubt that it has discredited state legislatures and Congress. It has led in many states to the initiative, the referendum and the recall. It claims, in its extreme phase, that government can only be popular when the actual meeting of the mob takes the place of the deliberations of the legislative body and decisions of the courts.

The man who acts as his own lawyer loses his property; as his own doctor, loses his life; as his own architect, lives in an unsanitary building; as his own engineer, drives over a bridge which falls into a stream. As life grows more intense in its demands upon people in every department of work, they must concentrate their minds on their industry if they would succeed in their chosen pursuit. The people know that with these conditions, and with the greatest intelligence among the masses, to provide measures of government and principles of justice is absolutely impossible.

They can select men, their neighbors, those who are willing to serve and who are able to do this work for them, and then judge of the capability and the intelligence of their representatives, as they do of the work of their engineer and their lawyer and their doctor, by results. It is to the credit of our institutions that while every other country has changed in its fundamentals, we live after one hundred and twenty-five years under the same constitution, practically unchanged and with a liberty and prosperity and promise for the future which are magnificent testimonies to the wisdom of the fathers.

SENATOR CHAUNCEY M. DEPEW.

*Speech at Republican Club, New York,
April 7, 1911.*

ADVANCED FORM OF STATE EVOLUTION

Thus modern democratic national states represent the most advanced form of state Evolution. With ethnic and geographic unity they have a strong national basis; and, by combining local self-government and *representation*, they secure that adjustment of liberty and sovereignty which, *even over large areas*, may subserve the interests of both individual and society.

PROF. RAYMOND G. GETTELL,
Trinity College.

Political Science, p. 64.

MODERN AND ANCIENT GOVERNMENT

Representative government is comparatively modern. Direct government of the democratic kind is ancient: and the latter was deliberately discarded for the former by the founders of our government. The framers of the Constitution were entirely familiar with the failure of direct democracy in a government of numerous population, and they were influenced by their knowledge of that failure in devising our own structure of representative government.

HON. SAMUEL W. McCALL.

Speech at Cedar Point, Ohio, July 12, 1911.

HAMILTON AND JEFFERSON AGREED

But when, scorning the arts of the demagogue, we look the facts squarely in the face, we must recognize frankly that in government there are certain functions which the people can not perform directly and which, therefore, in a popular government must be performed by representatives or delegates chosen by the people. And it is a fact that what the people do through their representatives or delegates, the people themselves do. If we can not have democratic government except on condition that all functions of government shall be exercised by the people themselves, democratic government becomes an impossibility. This was clearly recognized by the founders of the Republic. Indeed, the greatest achievement of the Constitutional Convention was the formulation of a plan of representative government in contrast with the system of direct popular government which was practiced in the republics of the ancient world. And Hamilton and Jefferson alike agreed that this devise of government by the people acting, not in person, but through their representatives, was the principal safe-guard of the rights of citizens and the firmest guarantee of the continuance of the Republic.

JACOB GOULD SCHURMAN.

Speech at Utica, Feb. 5, 1909.

THE LEADING RAMS

Speaking of the impossibility of the socialistic democracy, Dr. A. Schaffle, the distinguished German author says:

“The leading rams of the modern democratic flock whom all the sheep follow would be the sole actual legislators, rulers and administrators, and would in all probability not be of the best and most capable, but the most thorough-going demagogues, the most successful flatterers of the many-headed monarch.”

Social Democracy, p. 123.

GOVERNMENT BY TUMULT

The civic assemblies grew larger, louder and less orderly; the business was carried on after a more passionate and tumultuous fashion, because the guidance of a superior spirit was absent, and because the entire multitude accordingly took a more direct part in the proceedings, and unhesitatingly displayed its momentary feelings —its favor and disfavor, its satisfaction and impatience.

CURTIES.

History of Greece, Vol. 3, p. 92.

GOVERNMENT BY REPRESENTATIVES

For let it be agreed that a government is Republican in proportion as every member composing it has equal voice in the direction of its concerns, (not indeed in person, which would be impracticable beyond the limits of a city or a small township), but by *representatives* chosen by himself and responsible to him at short periods, and let us bring to the test of this canon every branch of our constitution.

THOMAS JEFFERSON.

Works, Vol. 15, p. 33.

THE EVILS OF POPULAR ELECTIONS

So was Rome destroyed by the disorders of continual elections, though those of Rome were sober disorders. They had nothing but faction, bribery, bread and stage plays to debauch them. We have the inflammation of liquor superseded, a fury hotter than any of them. There the contest was only between citizen and citizen, yet Rome was destroyed by the frequency of elections, and the monstrous expense of an unremitting courtship to the people.

EDMUND BURKE.

Thoughts on Discontent.

THE UNITED STATES SYSTEM

The system of government in the United States and in the several states is distinguished from a pure democracy in this respect, that the will of the people is made manifest through representatives chosen by them to administer their affairs and make their laws, and who are entrusted with defined and limited powers in that regard, whereas, the idea of a democracy, non-representative in character, implies that the laws are made by the entire people acting in a mass-meeting or at least by universal and direct vote. Representation is one of the very essentials of a Republican form of government.

BLACK'S CONSTITUTIONAL LAW.

Page 28.

A REPUBLICAN FORM OF GOVERNMENT

By the Constitution, a republican form of government is guaranteed to every State in the union, and the distinguishing feature of that form is the right of the people to choose their own officers for governmental administration and pass their own laws in virtue of the legislative power reposed in representative bodies, whose legitimate acts may be said to be those of the people themselves, but, while the people are thus the source of political power, their governments, National and State, have been limited by written constitutions, and they have thus thereby set bounds to their own power, as against the sudden impulses of mere majorities.

CHIEF JUSTICE FULLER.

*U. S. Supreme Court,
Duncan, 139 U. S., 449.*

ORIGIN OF REPRESENTATIVE GOVERNMENT

I begin with the Origin and Nature of the Representative System. This is an invention of modern times. In antiquity there were Republics and Democracies, but there was no Representative System. In Athens the people met in public Assembly, and directly acted for themselves on all questions, foreign and domestic. This was possible there, as the state was small and the Assembly seldom exceeded 5,000 citizens—a large town-meeting or mass-meeting as we might call it—not inaptly termed, “that fierced emocracie of Athens.”

The American System, though first showing itself in Massachusetts and Virginia, found its earliest practical exemplification a few years later, in the Constitution of the United States.

CHARLES SUMNER.

Works, Vol. 3, p. 232-241

TRUE AND FALSE DEMOCRACY

Jealousy of power honestly gained and justly exercised, envy of attainment or possession, are characteristics of the mob, not of the people; of a democracy which is false, not of a democracy which is true. False democracy shouts, Every man down to the level of the average. True democracy cries, All men up to the height of their fullest capacity for service and achievement. The two ideals are everlasting at war. The future of this nation as the future of the world, is bound up with the hope of a true democracy that builds itself on Liberty.

NICHOLAS MURRAY BUTLER.

True and False Democracy p. 15.

REPRESENTATION OUR INVENTION

They, (the Ancients) knew no medium between a Democracy, (the only pure Republic, but impracticable beyond the limits of a town) and an abandonment of themselves to an aristocracy or a tyranny independent of the people. It seems not to have occurred that where the citizens *cannot meet to transact their business in person*, they alone have the right to choose the agents who shall transact it, and that in this way a republican government of a second grade of purity may be exercised *over any extent of country*.

The full experiment of a government democratical, but representative, was and still is reserved for us.

THOMAS JEFFERSON.

Works, Vol. 16, p. 65.

GOVERNMENT BY SHOUTS

The manner of their election was as follows: The people being called together, some selected persons, were locked up in a room near the place of election, so contrived that they could neither see or be seen, but could only hear the noise of the assembly without, for they decided this, as most other affairs of moment, by the *shouts of the people*. This done, the competitors were not brought in and presented altogether but one after another by lot, and passed in order through the assembly without speaking a word. Those who were locked up had writing tablets with them in which they recorded and marked *each shout by its loudness*, without knowing in favor of which candidate each of them was made, but merely that they came first, second, third, and so forth. He who was found to have the most and loudest acclamations was declared senator duly elected.

PLUTARCH.

Lives, p. 92.

IT IS THE MODERN METHOD

Representation is the modern method by which the will of a great multitude may express itself through an elected body of men for deliberation in law making. *It is the only practicable way by which a large country can give expression to its will in deliberate legislation.* Give the suffrage to the people, let lawmaking be in the hands of their representatives, and make the representatives responsible at short periods to the popular judgment, and the rights of men will be safe, for they will select only such as will protect their rights and dismiss those who, upon trial, will not. True representation is a security against wrong and abuse in lawmaking.

JOHN RANDOLPH TUCKER.

PURE vs. REPRESENTATIVE DEMOCRACY

Democracies are of two kinds.—pure, or direct, and representative, or indirect. A pure democracy is one in which the will of the state is formulated and expressed directly and immediately through the people acting in their primary capacity. A pure democracy is practical only in small states, where the voting population may be assembled for purposes of legislation and where the collective needs of the people are few and simple. In large and complex societies, where the legislative wants of the people are numerous, the very necessities of the situation make government by the whole body of citizens a physical impossibility.

PROF. GARNER.

Introduction to Political Science.

GOVERNMENT BY SELECTED INTELLIGENCE

A simple or pure democracy mixes ignorance and intelligence, folly and wisdom, vice and virtue, inexperience and experience, demagogery and statesmanship altogether in hopeless confusion and the *bad neutralizes the good and pulls both the intellectual and moral standard down to the dead level of mediocrity*, but when we engrift upon a pure democracy the representative system, we then enable the people to pick out men of character, experience, wisdom and statesmanship, wherever they can be found, and assemble them in a representative body—in a legislature or a convention, where they can act for the public good.

A pure democracy, when reduced to the last analysis, means government by *collective ignorance*, while a representative democracy means government by *selected intelligence*.

CHARLES H. BETTS.

WHERE LIBERTY IS FOUND

Real liberty is never found in despotism or the extremes of Democracy, but in moderate governments. As long as offices are open to all men, and no constitutional rank is established, it is pure Republicanism. But if we incline too much to Democracy, we shall soon shoot into a monarchy.

The idea of introducing a monarchy or an aristocracy into this country by employing the influence and force of the government, continually changing hands, towards it, is one of those visionary things that none but madmen could meditate. * * * * * The fabric of the *American Empire* ought to rest on the solid basis of the consent of the People; and the streams of national power ought to flow immediately from that pure and original fountain of all legitimate authority.

ALEXANDER HAMILTON.

Works, Vol. 1, p. 411

POLITICAL RELIGION OF THE NATION

I know the American people are *much* attached to their government. I know they would suffer *much* for its sake. I know they would endure evils long and patiently before they would ever think of exchanging it for another. Yet, notwithstanding all this, if the laws be continually despised and disregarded, if their rights to be secure in their persons and property are held by no better tenure than the caprice of a mob, the alienation of their affections for the government is the natural consequence, and to that sooner or later it must come.

Here, then, is one point at which danger may be expected. The question recurs, how shall we fortify against it? The answer is simple. Let every American, every lover of liberty, every well-wisher to his posterity, swear by the blood of the revolution never to violate in the least particular the laws of the country, and never to tolerate their violation by others. As the patriots of seventy-six did to the support of the Declaration of Independence, so to the support of the Constitution and the Laws let every American pledge his life, his property, and his sacred honor; let every man remember that to violate the law is to trample on the blood of his father, and to tear the charter of his own and his children's liberty. Let reverence for the laws be breathed by every American mother to the lisping babe that prattles on her lap. Let it be taught in schools, in seminaries, and in colleges. Let it be written in primers, spelling-books, and in almanacs. Let it be preached from the pulpit, proclaimed in legislative halls, and enforced in courts of justice. And, in short, let it become the political religion of the nation.

ABRAHAM LINCOLN.

Speech at Springfield, 1832.

ORDERLY PROGRESS

In my judgement the type of democracy should be peace, moderation, enfranchisement and beneficence. As to the radicalism which is imputed to me, I have only to say now, as I have often said to you heretofore, that the tendencies of American institutions to the amelioration of laws and the improvement of society, have been my study; I aim to allow them free operation. I am in favor only of progress by advancement, peaceful and lawful, not by *subverting* in order to build anew.

WILLIAM H. SEWARD.

Works, Vol. 3, p. 415.

BACK TO THE CHAOS OF SAVAGERY

Society is stable when the wants of its members obtain as much satisfaction as, life being what it is, common sense and experience show may be reasonably expected. Mankind, in general, care very little for forms of government or ideal considerations of any sort; and nothing really stirs the great multitude to break with custom and incur the manifest perils of revolt except the belief that misery in this world or damnation in the next, or both, are threatened by the continuance of the state of things in which they have been brought up. But when they do attain that conviction, society becomes as unstable as a package of dynamite, and a very small matter will produce the explosion which sends it back to the chaos of savagery.

THOMAS H. HUXLEY.

Social Diseases and Worse Remedies.

FOR THE IDLE AND THE COMMON

This is a direct popular government of the people, with all that it carries in its train,—a multitude of projects started at public meetings, many assemblages and manifestations in the street. In all of this there is nothing which could be less attractive and more impracticable for the cultivated and busy classes. In our modern civilization, the daily occupation, the family and society absorb almost all our time. For this reason such a *regime* of Direct administration suits only the idle and common. The others will not try to make themselves fit conditions suitable only for the coarse man of no family and without affiliations having no occupation or standing, living in an unsettled fashion, of a vociferous tendency, strong of arm, thick-skinned and unbending, expert in the street scuffle and for whom force constitutes the greatest argument.

TAINE.

La Revolution, Vol. 6, p. 161.

MATTER OF ANTIQUARIAN CURIOSITY

For the sake of making clear what follows, I will venture to recapitulate what was said in an earlier chapter as to the three forms which government has taken in free countries.

First come primary assemblies, such as those of the Greek Republics of antiquity, or those of the early Teutonic tribes, which have survived in a few Swiss Cantons.

The people met, debated current questions, decided them by its vote, chose those who were to carry out its will.

Such a system of direct popular government is *possible only in small communities*, and in this day of *large states* has become a matter rather of *antiquarian curiosity* than of practical moment

JAMES BRYCE.

American Commonwealth, Vol. 2, pp. 278–80.

POLITICAL PATENT MEDICINE MEN

Conditions in the United States to-day are singularly like those which have attracted the favorable attention of a certain class of persons who are forced to make a living by their wits. The vendor of a patent medicine assures his hearers that they have at the moment some distressing symptoms, namely symptoms which every one has at one time or another. His hearers, assenting, easily accept the inference that they are seriously diseased and in need of instant relief. That relief can only be had from the contents of the bottle or package which they may purchase of him at a satisfactory price. Just this performance is being enacted to-day all over the United States by itinerant political patent medicine men. They tell all those who will listen that we are politically diseased and that our political life is in danger; our symptoms are those dreadful manifestations which, to some extent and in some degree, every human being and every form of society feel now and then. But the cure, the certain, sure speedy cure, is to purchase the bottle or the package which contains the political patent medicine that the particular political patent medicine man has for sale. His plausible story wins enough support to gain him a livelihood and to keep his name in active prominence before the public.

We are to-day infested with these political patent medicine men. Ignorant of ordinary laws of political and social growth, or defying them, they press upon us the odd and curious nostrums of their own making which are to cure all our evils, to abolish poverty, to do away with injustice, and to bring about that happy and blissful Utopia of which certain types of men with nothing useful to do habitually dream.

NICHOLAS MURRAY BUTLER.

Speech at Rochester Republican Convention, April 10, 1912.

PROTECTS THE RIGHTS OF MINORITIES

The defense is properly set up for a republican form of government with a division of powers, that it protects the right of minorities. The majority of the people may not directly attack the interests of the minority. Yet in the use of the initiative, the referendum and the recall, what is seen? The minority often absolutely controls the majority. Indeed it seems to be assumed that this is their right.

Men like Washington, Lincoln, Daniel Webster, Henry Clay and John C. Calhoun were not the products of any political system in which bodies of mediocre men with hobbies robbed the legislature of its dignity and authority and subjected executive, legislative and judicial officers to the fear of recall when they pursued a course distasteful to some faction of the electorate. Only timid, shambling, ineffective men can come out of a system which strips public office of character and authority and makes it directly subservient to popular whims.

PROFESSOR OBERHOLTZER.

Referendum in America.

THOSE WHO SEE FACTS AND THOSE WHO SEE VISIONS

Those who are so intemperately appealing to the people to take over the *direct* management of their government, with its multiplicity of detail and difficulty, the successful operation of which demands concentration of effort and thoroughness of application, are preparing the way for future mischief. They are advocating a political creed alluring to the imagination, but utterly impossible of successful realization, and which, if adopted, will lead us more and more into the domain of the impracticable, with political chaos or political despotism as the ultimate result. It is the old contest between idealism and stubborn, matter-of-fact reality. It is the story of the philosopher's stone over again—the dream of transmuting all the metals into gold—the hunt for the master key that will open all locks, however different in size and shape—the problem of fitting square pegs into round holes—the puzzle of how to eat one's cake and have it—the search for the chimera of perpetual motion—the quest for the mythical pot of gold at the foot of the rainbow—and all the impossible undertakings which have vexed men's souls and turned their brains and filled the lunatic asylums since mankind was divided into those who see facts and those who see visions. Finally, this latest delusion of having everybody drive the horses and everybody ride in the coach at the same time must share the fate of all the others, for it is now, as it has always been, that the pursuit of the unattainable is the most profitless of human occupations.

SENATOR GEORGE SUTHERLAND.

Speech, House of Representatives, July 11, 1911.

THE RAW DEMAGOGUE

Many excellent persons believe apparently that beneficent results can be obtained by certain proposed alterations in the Constitution, often, I venture to think, without examination of the history and theory of government and without measuring the extent or weighing the meaning of the changes which are urged upon us. But it is also true that every one who is in distress, or in debt, or discontented, now assails the Constitution, merely because such is the present passion.

Every raw demagogue, every noisy agitator, incapable of connected thought and seeking his own advancement by the easy method of appealing to the envy, malice, and all-uncharitableness—those lovely qualities in human nature which so readily seek for gratification under the mask of high sounding and noble attributes—all such people now lift their heads to tear down or remake the Constitution.

HENRY CABOT LODGE.

Speech at Raleigh, N. C., Nov. 28, 1911.

RESPONSIBILITY MUST BE LOCATED

Members of the Legislature of the different states are the agents and direct representatives of the people, and if it be true that as a whole they are incompetent, unworthy and corrupt it would follow necessarily that the masses of the people from whom they spring and from whom they are selected were also either corrupt or criminally indifferent to their interests or liberties. They possess the same characteristics as the people from whom they have come, and if, after repeated trials and selections, the community can not secure an intelligent and honest man to represent it, *I should not like to live under the laws initiated or adopted by the sovereignty of that people.*

It is a sound governmental principle that political power should always be accompanied with responsibility *located* and *identified*.

Where responsibility can not be placed it *does not exist*, and an irresponsible power in government inevitably leads to oppression or the loss of liberty. That this responsibility shall not be evaded under our representative system of government, the constitution of every state requires the legislative record shall disclose the presence or absence of each legislator, and his vote and his position on every bill. Where in the system of the Initiative, would this sobering knowledge of responsibility rest? What right would one citizen have to call another to account? Each would represent only himself and with the utter lack of responsibility on the part of the law making body, arbitrary and irresponsible power would be enthroned and the *reign of anarchy commenced.*

GOV. EMMET O'NEAL, *of Alabama.*

Editorial Review, Feb. 1912.

CASTLES OF WOODEN BRICK

Rousseau does not fail to see that the complete exercise of sovereign power, according to his notion of it, is impossible; for how are the sovereign people all to come together? His answer is that modern states are a great deal too large; he would imitate the independent Greek city, or what he states it to be. *When the people are assembled every citizen is equally a magistrate, and all government is in abeyance.*

It was the Frenchman who supplied beforehand, if his country would have appreciated it, an antidote to Rousseau's fictions. Montesquieu, with all his faults and irregularities, is the father of modern historical research. He held fast to the great truth that serious polities can not be constructed in the air by playing with imaginary men of any particular race or country and building them up into arbitrary combinations, as a child builds castles with wooden bricks. He applied himself to the study of political institutions as belonging to societies of different historical types, and determined by historical conditions.

SIR FREDERICK POLLOCK.

History of the Science of Politics,
Humboldt Library, pp. 31-33.

WHERE ROOSEVELT GOT HIS CUE

We may reasonably expect that with the "recall" applied to our elective offices election days will become so numerous that the average citizen will not have very much time left for his ordinary duties.

Neither is it a wild conjecture to assume, if the tendency shown by these laws is to prevail, that the referendum will finally be applied to the decisions of the courts. It might prove to be a very popular measure. *A demagogue would have a splendid opportunity to expound its advantages.* He could confidently ask, "Are you not willing to trust the people?" In the state of feeling existing against the courts among many people all over the country, it would be useless to endeavor to answer the question.

What a simple procedure it would be to appeal from the decision of the Court to the people and have the latter determine whether the judgment of the Court should stand as the judgment of the people! If answered in the negative a remedy would be immediately available. A petition could be circulated, which would find ready signers, to recall the judge. This is not a visionary or improbable development of the innovations now in progress. In Rome no Roman citizen could be condemned to capital punishment until he had had an opportunity to submit his case to the people.

HON. ROBERT W. BONYNGE.

In Political Innovations,
Forum, June, 1911, p. 655.

PURE DEMOCRACY MEANS OVERTHROW OF REPUBLIC

No thoughtful citizen can fail to realize that great and far reaching changes in the form of our government as originally established are impending and are in actual progress. After a century and a quarter of unprecedented natural growth and development under the representative form of government, many of the states of the union have in recent years adopted radical innovations in that system. If the movement now well under way continues to spread and finally reaches the National Government the result must ultimately be the overthrow of the republic and the substitution in its place of a pure democracy. Our institutions were not hastily adopted; they should not be thoughtlessly discarded. Are we prepared to make the change?

HON. ROBERT W. BONYNGE.

*Political Innovations,
Forum, June, 1911, p. 645.*

NOT REFORM BUT ATAVISM

The restlessness generated by pressure against the conditions of existence, perpetually prompts the possessor to try a new position. Everyone knows how long continued rest in one attitude becomes wearisome—everyone has found how even the best easy chair, at first rejoiced in, becomes after many hours intolerable, and change to a hard seat, previously occupied and rejected, seems for a time to be a great relief. It is the same with incorporated humanity. Having by long struggles emancipated itself from the hard discipline of the ancient *regime*, having discovered that the new *regime* into which it has grown, though relatively easy, is not without stress and pains, it is impatient with its triumphs and wishes to try another system, which other system *is in principle, if not in appearance, the same as that which during past generations was escaped from with much rejoicing.*

* * *

Yet, while elevation, mental and physical, of the masses is going on far more rapidly than ever before—while the lowering of the death-rate proves that the average life is less trying, there swells louder and louder the cry that the evils are so great that nothing short of a social revolution can cure them. In presence of obvious improvements, joined with that increase of longevity which even alone yields conclusive proof of general amelioration, it is proclaimed, with increasing vehemence, that things are so bad that society must be pulled to pieces and re-organized on another plan.

HERBERT SPENCER.

*Political Education and
Freedom From Bondage.*

A WELL REGULATED DEMOCRACY

The supporters of the Constitution claim the title of being the firm friends of the liberty and the rights of mankind. They say that they consider it as the best means of protecting liberty. We, Sir, idealize democracy. Those who oppose it have bestowed eulogiums on monarchy. We prefer this system to any monarchy because we are convinced that it has a greater tendency to secure our liberty and promote our happiness. We admire it, because we think it a well regulated democracy.

The honorable gentleman has asked if there be any safety or freedom, when we give away the sword and the purse. Shall the people at large hold the sword and the purse without the interposition of their representatives? *Can the whole aggregate community act personally? I apprehend that every gentleman will see the impossibility of this.* Must they, then, not trust them to others? And to whom are they to trust them but to representatives, who are accountable for their conduct.

JOHN MARSHALL.

Speech in Virginia Convention, June 10, 1788.

FATE OF PURE DEMOCRACIES

So great is the force of laws, and of particular forms of government, and so little dependence have they on the humours and tempers of men, that consequences almost as general and certain may sometimes be deduced from them, as any which the mathematical sciences afford us.

The constitution of the Roman republic gave the whole legislative power to the people, without allowing a negative voice either to the nobility or consuls. This unbounded power they possessed in a collective, not in a representative body. The consequences were: when the people, by success and conquest, had become very numerous, and had spread themselves to a great distance from the capital, the city tribes, though the most contemptible, carried almost every vote; they were, therefore, most cajoled by every one that affected popularity; they were supported in idleness by the general distribution of corn, and by particular bribes, which they received from almost every candidate; by this means, they became every day more licentious, and the Campus Martius was a perpetual scene of tumult and sedition; armed slaves were introduced among these rascally citizens, so that the whole government fell into anarchy; and the greatest happiness which the Romans could look for, was the despotic power of the Cæsars. Such are the effects of democracy without a representative.

DAVID HUME.

The Science of Politics, p. 9.

PURE DEMOCRACIES SHORT LIVED

From this view of the subject it may be concluded that a pure democracy, by which I mean a society consisting of a small number of citizens, who assemble and administer the government, in person, can admit of no cure for the mischiefs of faction. Hence it is that such democracies have ever been spectacles of turbulence and contention, have ever been found incompatible with personal security, or the rights of property, and have in general been as short in their lives as they have been violent in their deaths.

Theoretic politicians, who have patronized this species of government, have erroneously supposed that by reducing mankind to a perfect equality in their political rights, they would at the same time be perfectly equalized and assimilated in their possessions, their opinions, and their passions.

A republic, by which I mean a government in which representation takes place, opens a different prospect, and promises the cure for which we are seeking.

JAMES MADISON.

Federalist, Letter X.

POLITICAL IDEAS OF THE FATHERS

Prerogative and popular rights should be so balanced as to protect the nation from tyranny on the one side and from mob rule on the other. The different estates of the realm should be so represented in the government that each should be able to check excess on the part of the other. Support for this doctrine was found in the writings of Aristotle, Polybius, Cicero and Tacitus. Montesquieu's adherence to it in opposition to the general current of European opinion made his "Spirit of the Laws" more influential in England and America than that great work ever was in the author's own country.

Blackstone exhibited this doctrine as the fundamental principle of the British constitution, with such a parade of learning as to make his conclusion seem indisputable and with such noble resources of style that the "Commentaries" took rank as a literary classic, as well as a law book. The same doctrine eventually received from Edmund Burke the most eloquent expression ever given to political ideas. It floats in the music of his grandest passages—as when he speaks of,

"That action and interaction which in the natural and in the political world, from the reciprocal struggles of discordant powers, draws out the harmony of the universe."

PROF. HENRY JONES FORD,

of Princeton University.

Rise and Growth of American Politics, p. 29.

FREEDOM OF PUBLIC SERVANTS

In short, democratic government means freedom, independence—combined with genuine responsibility to the people—through the entire body politic; for public servants, as well as for their employers; for public officials as well as the mass of citizens. Every public servant must be carefully selected. He must be held to constant thorough responsibility, in some way which will be really effective. But he must have freedom; the same freedom that wise administrators give to their employees in private employments. In private employments, we trust men. We give them our confidence. We find that to be the surest way of making them deserve our confidence. There is no atmosphere so certain to make men dishonest and inefficient, as the atmosphere of doubt and distrust.

ALBERT STICKNEY.

Organized Democracy, p. 69.

FAVOR EVOLUTION, NOT REVOLUTION

My Dear Mr. Betts:

The number of the "*Republican*" which you have sent me has interested me greatly, not only as a triumph of good work, but as an evidence that you are in control of a stronghold of right reason. I am also naturally glad to find that my general opinions are very similar to your own. Your feelings regarding Mr. Roosevelt, as you state them, seem almost identical with those which I hold, and your reply to him in the correspondence given on page 11 seems to me admirable, both as regards matter and manner. Like yourself I regard him with admiration and gratitude, while regretting several minor features in his career. Your attitude, also, throughout the various questions incidentally touched upon, commends itself as thoroughly sound and sane, and I am glad to see opinions which I hold stated with such clearness and cogency; indeed, I can recall no general treatment of political questions in recent years which seems to me more likely to influence public opinion healthfully.

Like yourself I am hoping to see a vigorous reaction against the multitude of absurd proposals for so-called "reforms" which would only increase the evils we have and add to them new ills which, as yet, we know not of, and my feeling is that it is just such modes of argument as those which you employ that will bring in the "sober second thought," on which we must rely for any betterment of the present condition of things.

We are evidently alike in preferring *Evolution* to *Revolution*.

HON. ANDREW D. WHITE

*In a personal Letter to the
Editor of The Lyons Republican.*

ATHENIAN ASSEMBLY A MOB

Nothing can be more fallacious than to found our political calculations on arithmetical principles. Sixty or seventy men may be more properly trusted with a given degree of power than six or seven. But it does not follow that 600 or 700 would be proportionately a better depository. And if we carry on the supposition to 6,000 or 7,000 the whole reasoning ought to be *reversed*. The truth is that in all cases a certain number at least, seems to be necessary to secure the benefits of free consultation and discussion, and to guard against too easy a combination for improper purposes; as, on the other hand, the number ought at most to be kept within a certain limit in order to avoid the confusion and intemperance of the multitude. In all very numerous assemblies, of whatever character composed, passion never fails to wrest the scepter from reason. Had every Athenian citizen been a Socrates, every Athenian assembly would still have been a mob.

JOHN JAY.

Federalist, Letter LIV.

HEMLOCK ONE DAY, STATUES THE NEXT

Thus far I have considered the circumstances which point out the necessity of a well constructed Senate, only as they relate to the representatives of the people. To a people as little blinded by prejudice or corrupted by flattery as those whom I address, I shall not scruple to add that such an institution may be sometimes necessary as a defense to the people against their own temporary errors and delusions. As the cool and deliberate sense of the community ought in all governments, and actually will in all free governments, ultimately prevail over the views of its rulers, so there are particular moments in public affairs when the people, stimulated by some irregular passion or some illicit advantage, or misled by the artful misrepresentations of interested men, may call for measures which they themselves will afterwards be the most ready to lament and condemn. In these critical moments, how salutary will be the interference of some temperate and respectable body of citizens, in order to check the misguided career, and to suspend the blow, meditated by the people against themselves, until reason, justice and truth can regain their authority over the public mind.

What bitter anguish would not the people of Athens have often escaped if their government had contained so provident a safe-guard against the tyranny of their own passions? Popular liberty might then have escaped the indelible reproach of decreeing to the same citizens the hemlock on one day, and statues on the next.

ALEXANDER HAMILTON.

Letter LXII, Federalist, World's Great Classics.

TO ACT RIGHTLY REQUIRES STUDY AND INVESTIGATION

Pascal said, that most of the evils of life arose from “man’s being unable to sit still in a room”; and though I do not go that length, it is certain that we should have been a far wiser race than we are if we had been ready to sit quiet,—we should have known much better the way in which it was best to act when we came to act.

To act rightly in modern society requires a good deal of previous study, a great deal of assimilated information, a great deal of sharpened imagination, and these prerequisites of sound action require much time, and I was going to say, much “lying in the sun,” “a long period of mere passiveness.” Even the art of killing one another, which at first particularly trained men to be quick, now requires them to be slow. A hasty general is the worst of generals nowadays; the best is a sort of Von Moltke, who is passive if any man ever was passive; who is, “silent in seven languages.” This man plays a strained and considerate game of chess with his enemy.

WALTER BAGEHOT.

*In Physics and Politics,
Humboldt Library, pp. 182-3.*

COLLECTIVISM IMPOSSIBLE

There is only one state of affairs under which equality is possible, that is, when no one possesses and no one can acquire any thing. But surely collectivism is a chimera, an Utopia, a thing impossible. Certainly it is impossible in the sense that in the country which adopts it, the source of all initiative will be destroyed. No man will make an effort to improve his position, since it must never be improved. The whole country will become one of those stagnant pools. The country that reforms itself in this way would be conquered at the end of ten years by some neighboring people, more or less ambitious. That admits of no question; but what does it prove? That collectivism is only impossible because it is only possible if established in every country at once. We must, therefore, take our problems in order and abolish nationalities before we can establish collectivism.

Thus equality demands the abolition of inheritance, and the equality of possessions. Equality of possessions necessitates collectivism and collectivism requires the abolition of nationalities. We are *egalitarians*, than collectivists, and by logical consequence, *anti-patriots*.

PROFESSOR EMILE FAGUET,
of the French Academy.

The Cult of Incompetence, p. 200-203.

CONSTITUTIONAL LIMITATIONS IMPER- SONAL

There is prejudice in some minds against the discussion of constitutional limitations, because lawyers become dry and tedious and narrow and technical in discussing them, but they are the declaration of those principles of eternal justice upon which civilization rests, set up by the people for their own guidance. They are a covenant between all the people, and every man, every woman and every child in the state. They are a covenant between arbitrary and overwhelming power and the weakness of the individual. These constitutional limitations are necessarily established in the abstract. They are impersonal. They are the rules of action which are established when men have no particular interest at stake. They are the rules of action that are established when there is no strong desire to do injustice. Universal and impersonal, they constitute the nearest approach that humanity has ever come to putting into human law the divine rules conformity to which is the requisite of a Christian civilization.

SENATOR ELIHU ROOT.

*Speech at Rochester Convention,
April 10, 1912.*

BUILT UPON THE ROCK OF REASON

The foundations of our government are laid in the principle that a people can best govern themselves by selecting from their midst representatives who shall act for them and bear the responsibility in the broad light of day. And at no time have our people been unable to control their destinies under this system. No executive or legislature has ever succeeded in ultimately thwarting the popular will. If there has seemed to be delay at times, that delay has been generally compensated for by an added efficiency in the reform which is ultimately accomplished. The structure which has sheltered us for so many years has from time to time developed defects, but it has sheltered us remarkably well, and its foundations are built upon the rock of reason. We are urged to tear the structure down, uproot the foundations and substitute for it a scheme of government which is not new by any means, but rather is as old almost as human history. It was tried in the democracies of antiquity, and in every instance disaster, anarchy and tyranny resulted.

HON. JAMES W. WADSWORTH, JR.

Former Speaker of the New York State Assembly.

*Speech at Rochester Convention,
April 10, 1912.*

THE CONVENTION SYSTEM

It is to induce our friends to act upon this important and universally acknowledged truth, that we urge the adoption of the convention system. Reflection will prove that there is no other way of practically applying it. In its application we know there will be incidents temporarily painful, but after all those incidents will be fewer and less intense with than without the system.

ABRAHAM LINCOLN.

Springfield, March 1, 1843.

NOT A CONSTITUTIONAL DEMOCRACY

A fifth form of democracy is that in which not the law but the multitude has the supreme power, and supersedes the law by its decrees. This is a state of affairs brought about by the demagogues. For in democracies which are subject to the law, the best citizens hold the first place and there are no demagogues; but where the laws are not supreme, there demagogues spring up. For the people becomes a monarch and is many in one; and the many have the power in their hands, not as individuals but collectively.

* * * * *

And the people, who is now a monarch, and no longer under the control of law, seeks to exercise monarchical sway and grows into a despot; the flatterer is held in honor; this sort of democracy being relatively to other democracies what tyranny is to other forms of monarchy.

The spirit of both is the same, and they alike exercise a despotic rule over the better citizens. The decrees of the Demos correspond to the edicts of the tyrant, and the demagogue is to the one what the flatterer is to the other.

Both have great power,—the flatterer with the tyrant, the demagogue with the democracies of the kind which we are describing. The demagogues make the decrees of the people override the laws, and refer all things to the popular assembly. And therefore they grow great, because the people has all things in its hands and they hold in their hands the votes of the people, *who is too ready to listen to them*. Such a democracy is fairly open to the objection that it is not a constitution at all; *for where the laws have no authority there is no constitution.*

The law ought to be supreme over all. So that if democracy be a real form of government, the sort of constitution in which all things are regulated by decrees is *clearly not a democracy in the true sense of the word*. For decrees relate only to particulars.

ARISTOTLE.

The Politics. See Works.

THE MASSES

Self-government is the natural government of man, and for proof, I refer to the Aborigines of our own land. Were I to speculate in hypotheses, unfavorable to human liberty, my speculations should be founded rather upon the vices, refinements or density of population. Crowded together in compact masses, even if they were philosophers, the contagion of the passions is communicated and caught, and the effect, too often, I admit, is the overthrow of Liberty.

HENRY CLAY.

Works, Vol. 1, p. 245.

THE DRIVE OF CIVILIZATION

The drive of modern civilization has forced us to specialization along every other line. Why not in affairs of state? If any individual should attempt to be his own lawyer, physician and dentist, in these days, we should certainly "write him down an ass!" And with reason, because we would know he was foredoomed to get his legal affairs hopelessly entangled, his health endangered and his teeth in a bad state. Why apply any different rule to governmental matters? Because they are simpler? And truly that would be ignorant or rash to make any such assertion! The task of the lawyer or doctor assumes diminutive proportions when compared with the tremendous problems which any one in a government post must consider and determine. The complexity and gravity of the problems we are facing in state and nation is so great, that the strong, trained man of experience in governmental administration must often shrink from the responsibility of attempting to solve them, when he reflects on the consequences of a misstep. Does the mass of untrained and uninformed men regard themselves as better able to look out for these important affairs, simply because of their great number? It is difficult to see what other superior qualifications they possess over the representative of training, conscience and education.

* * *

In view of our manifest efforts to lessen their power and responsibility (our representatives) could we expect any thing but a decrease in their efficiency and sense of duty? The defects which have troubled us in our representative system would seem to be along exactly the opposite line to that which we have thus far pursued.

Let us cease to deprive our representatives of power and responsibility; let us place real power in their hands and as a corollary hold them to a rigid and comprehensive accountability.

JOHN S. SHEPPERD, JR.

*Representation in Popular Government,
Forum, June, 1910, pp. 647-8.*

THE IDEAL TYPE OF GOVERNMENT

From these accumulated considerations, it is evident, that the only government which can fully satisfy all the exigencies of the social state, is one in which the whole people participate; that any participation, even in the smallest public function, is useful; that the participation should everywhere be as great as the general degree of improvement of the community will allow; and that nothing less can be ultimately desirable, than the admission of all to a share in the sovereign power of the state. But since all cannot, in a community exceeding a *single small town*, participate personally in any but some very minor portions of the public business, it follows that the *ideal type of a perfect government must be representative.*

JOHN STEWART MILL.

Representative Government, p. 66.

THE PHYSIOLOGY OF POLITICS

To advocate in this twentieth century the importance of studying the actual working of government may seem like watering a garden in the midst of rain. But that this is not the case every one must be aware who is familiar with current political literature on such living topics as proportional representation, the referendum and initiative, and the reform of municipal government. These discussions are for the most part conducted in the air. They are theoretical, treating mainly of what ought to happen, rather than what actually occurs; and even when they condescend to deal with facts it is usually on a limited scale with very superficial attention to the conditions under which the facts took place. The waste of precious efforts at reform, from a failure to grasp the actual forces at work, is indeed one of the melancholy chapters in our history. Earnest men, overflowing with public spirit, sometimes remind one of a woodpecker in Cambridge, some years ago, who strove loudly for an entire forenoon to drill a hole in a copper gutter. Reformers are prone to imagine that a new device will work as they intend it to work, and are disappointed that it does not do so. They are far too apt to assume that if their panacea be adopted mankind will become regenerate; whereas the only fair supposition is that men will remain under any system essentially what they are—a few good, a few bad, and the mass indifferent to matters that do not touch their personal interests. All reform movements need for criticism a devil's advocate who is not, however, believed to be in league with the devil; or rather they need advice from people who are really familiar with the actual working of many political institutions. In short, they need men with a scientific knowledge of the physiology of politics.

PROF. A. LAWRENCE LOWELL.

Political Science Review,
Feb. 1910.

AMERICAN POLITICAL PRINCIPLES

I will venture to state, in a few words, what I take these American political principles in substance to be. They consist, as I think, in the first place, in the establishment of popular governments on the basis of representation. We are at the head of representative popular governments.

DANIEL WEBSTER.

Bunker Hill Oration

ANTI-RACE SUICIDE

The greatest social problem of our age is how to stop the constant flow of the great Amazon of ignorance, viciousness, inefficiency and incompetency which is flooding the country.

This ever-widening river finds its source in the excessive multiplication of the ignorant and inefficient native and foreign element of our society.

The result is that the country is being flooded with a population which, by reason of its incompetency and inefficiency, is unfitted for the struggle of life under our modern complex civilization and rapidly changing industrial development.

The time has come when we will have to pay a little more attention to race regeneration if we ever expect to solve the great social problems that confront us.

There never was, in the history of the world, such a wide and steady *demand* for efficiency and there never was such a limited supply. There never was such an *overflow of inefficiency* and for it there never was such a *limited demand*. The field for the display of energy, industry and talent was never so *wide*; the field for the display of ignorance, incompetency and inefficiency was never so *small*.

It is this ever increasing demand for efficiency and the limited supply, and this constantly increasing supply of inefficiency and limited demand, which is the main factor in creating the social problems of our time.

We are multiplying humanity at a tremendous ratio, from the wrong source—from the bottom instead of the top. This is the cause of more than half our ills. It is not the *system of government that is at fault*. It is the system of multiplying the wrong kind of people.

Suppose we were to breed our domestic animals along the same line? How long would it be before we would have a crowded domestic animal population, the *chief bulls and rams* (the demagogues) of which would be rearing upon their hind legs and demanding a pure democracy, direct nominations, the initiative, the referendum and the *recall* of the thorough-breds who had distanced them in the race.

This is exactly what is happening in the human kingdom.

CHARLES H. BETTS.

A REPUBLIC DEFINED

A republic is not founded on virtue: it is founded on the ambition of every citizen, which checks the ambition of others; on pride restraining pride; and on the desire of ruling, which will not suffer another to rule. Hence are formed laws which preserve as great an equality as possible. It is a society where the guests eat at the same table with an equal appetite, until a strong and voracious man comes, who takes all to himself, and leaves them only the crumbs.

VOLTAIRE.

Works, Vol. XXVII, p. 297.

MOST BARBAROUS JUDGES IN THE WORLD

It is difficult to weigh, in an exquisitely nice balance, the iniquities of the republic of Athens and of the court of Macedon. We still upbraid the Athenians with the banishment of Cimon, Aristides, Themistocles, and Alcibiades, and the sentences of death upon Phocion and Socrates; sentences similar in absurdity and cruelty to those of some of our own tribunals.

In short, what we can never pardon in the Athenians is the execution of their six victorious generals, condemned because they had not time to bury their dead after the victory, and because they were prevented from doing so by a tempest. The sentence is at once so ridiculous and barbarous, it bears such a stamp of superstition and ingratititude, that those of the Inquisition, those delivered against Urbain Grandier, against the wife of Marshal d'Ancre, against Montrin, and against innumerable sorcerers and witches, etc., are not, in fact, fooleries more atrocious.

* * *

The evil is, in consigning living men to the executioner; living men who have won a battle for you; living men, to whom you ought to be devoutly grateful.

Thus, then, are the Athenians convicted of having been at once the most silly and the most barbarous *judges* in the world.

* * *

They asked pardon of Socrates after his death, and erected to his memory the small temple called *Socrateion*. They asked pardon of Phocion, and raised a statue to his honor. They asked pardon of the six generals, so ridiculously condemned and so basely executed. They confined in chains the principal accuser, who, with difficulty, escaped from public vengeance.

* * *

Democracy seems to suit only a very small country; and even that fortunatately situated. Small as it may be, it will commit many faults, because it will be composed of men.

VOLTAIRE.

Works, Vol. VIII., pp. 76-80.

LAW, NOT MEN

He who bids the law rule, may be deemed to bid God and Reason alone rule. But he who bids man rule, adds an element of the beast; for desire is a wild beast, and passion perverts the minds of Rulers, even when they are the best of men. The law is reason unaffected by desire.

ARISTOTLE.

The Politics. Worlds Great Classics p. 82.

GENUINE REFORM ADVOCATED

I am in favor of instituting a genuine reform in the interest of the people, in the interest of the taxpayers, in the interest of peace and business prosperity and in the interests of morality and good government. I would do it by reducing and not increasing elections, and I would do it by reducing the number of elections in the state to one in four years, and by reducing the number of elections in the nation to one in eight years, and then I would have but one session of the State Legislature in two years. I would also lengthen the term of all elective representative officers so that they would have time to attend to the public business instead of spending all their time preparing for a re-election.

By reducing the number of sessions of the legislature we would be able to reduce the number of foolish laws, which are enacted to hamper individual initiative, to interfere with the natural freedom of the people, and curtail the personal liberty of citizens.

By reducing the number of elections we would reduce enormously expense to the taxpayers; we would reduce strife, bitterness, contention, bribery and corruption and promote the cause of morality, of peace, of prosperity and of good and stable government.

You may not have thought of it, but it is a fact, nevertheless, that when conditions are normal, when there is no strife and contention, when every individual is attending to his own business and letting everybody else do the same, when everybody is giving his time, his thought and his effort to the increasing and upbuilding of his own business and there are no elections to interrupt business, prosperity advances by leaps and bounds, because under such conditions *brains*, like cream, rise to the top and take command of the situation.

But when everybody's attention is distracted from business to politics, when a large class of our citizens are neglecting their own business to engage in politics, and when everybody is in doubt and owing to the uncertainty of elections, afraid to invest money or increase their business obligations, when all is strife and contention, and we are all stirred up in the political turmoil incident to elections, then

it is that the *froth* rises to the top and the nimble tongued, leather lunged demagogue comes to the front and takes command of the situation.

CHARLES H. BETTS.

Speech at Lyons, Oct. 9, 1910.

THE GRAND INSTRUMENT OF CIVILIZATION

The formation of any plan for Social Organization necessarily embraces two series of works, as distinct in their objects as in the kind of capacity they demand. One, Theoretical or Spiritual, aims at developing the leading conception of the plan—that is to say, the new principle destined to co-ordinate social relations—and at forming the system of general ideas, fitted to guide Society. The other, Practical or Temporal, decides upon the distribution of authority, and the combination of administrative institutions best adapted to the spirit of the system already determined by the Theoretical labours.

* * *

Every social system, whether constructed for a handful of men or for several millions, aims definitely at directing all special forces towards a general result; for the exercise of a general and combined activity is the essence of *society*. On every other hypothesis, there is merely an agglomeration of a certain number of persons upon the same soil. It is this which distinguishes human society from that of other gregarious animals.

Hence it follows that the clear and precise ascertainment of the *active Aim* constitutes the first and most important condition of a true social order, since this fixes the true meaning of the system.

On the other hand, a society, however numerous it may be, can, just as an individual, propose to itself only one of *two* possible active Aims. These are, a violent action upon the rest of the *human race*, *that is to say, conquest*; and an action upon Nature, modifying it for the advantage of Man, or *production*. Every society which is not definitely organized for one or other of these aims, *must be a mongrel one, devoid of character*. The *Military aim* characterized the Old System, while the *Industrial aim* characterizes the Modern one.

The first step needed for Social Reorganization, was, therefore to proclaim this new Aim.

* * *

In the earliest infancy of the human mind, Theoretical and Practical labours are executed by the same person for all operations; yet this circumstance, while rendering the distinction less evident, does not effect its reality. Soon, however, these two classes of operations begin to disengage themselves, as demanding different, and in some respects contrasted, capacities and training. As the collective and individual intelligence of the human race develops itself, this separation becomes more and more pronounced, and general, and consti-

tutes the source of new advances. The degree of a nation's civilization, philosophically considered, may be really measured by the extent to which Theory and Practice have been separated and harmonized. For the *grand instrument of Civilization consists in the Division of Labor and the Combination of Efforts.*

AUGUSTE COMTE.

*Scientific Reorganization
of Society, pages 109, 111, 115.*

AMERICAN REPRESENTATIVE DEMOCRACY

Representation was a thing unknown in the ancient democracies. In those the mass of the people met and enacted laws (grammatically speaking) in the first person. Simple democracy was no other than the common hall of the ancients. It signifies the *form*, as well as the public principle of the government. As these democracies increased in population, and the territory extended, the simple democratical form became unwieldly and impracticable; and as the system of representation was not known, the consequence was they either degenerated convulsively into monarchies, or became absorbed into such as then existed.

It is possible that an individual may lay down a system of principles, on which government may be constitutionally established to any extent of territory. This is no more than an operation of the mind, acting by its own powers. But the practice upon those principles as applying to the various and numerous circumstances of a nation * * * * requires a knowledge of a different kind, and which can be had only from the different parts of society. Referring, then to the original simple democracy, it affords the true data from which government on a large scale can begin. It is incapable of extension, not from its principle, but from the inconvenience of its form; and monarchy and aristocracy from their incapacity. Retaining, then, democracy as the ground, and rejecting the corrupt systems of monarchy and aristocracy, the representative system naturally presents itself, remedying at once the defects of the simple democracy as to form.

Simple democracy was society governing itself without the aid of secondary means. By engraving representation upon democracy, we arrive at a system of government capable of embracing and confederating all the various interests and every extent of territory and population. It is impossible to conceive a system of government capable of acting over such an extent of territory, and such a circle of interests, as is immediately produced by the operation of representation. It adapts itself to all possible cases. It is preferable to a simple democracy even in small territories. Athens, by representation, would have out-rivaled her own democracy.

That which is called government, or rather that which we ought

to conceive government to be, is no more than some common center, in which all of the parts of society unite. This can not be accomplished by any method so conducive to the various interests of the community, as by the representative system. It concentrates the knowledge necessary to the interests of the parts, and of the whole. It places government in a state of constant maturity.

THOMAS PAINE.

Rights of Man.

THE CRAZE FOR SOMETHING NEW AND THE CONSEQUENCES

In the craze for something new the mind of unrest discards as useless everything that is old, neglectful of the truth that whatever is old has come through experience and withstood that hardest of tests. The joy of imagination is the beauty of living. It should be cherished as such, but it is not a function of government. The wisest provision of the American constitution was the self-restraint imposed upon the electorate, by itself.

That self-restriction is now the real object of attack from those whose minds which are so intemperate politically that their advocacy of the abolition of these restrictions is proof of the wisdom of their retention. It is not important what concrete form their mental attitude takes, whether it is in the recall of judges, recall of judicial decisions, initiative, compulsory legislative referendum, direct nominations or anything else. It is the state of mind which advocates these concrete things that requires treatment. That state of mind believes in rushing to the Legislature for the enactment of statutes to cure evils which can never be remedied by legislative enactment. In its failure to succeed through legislation, it attacks the organic law, the constitution, which protects the individual citizen of America from aggression from every direction, on the part of the government, on the part of the people or on the part of another individual. No constitution can restrain its disordered aspiration. It would cast it away as a wornout garment just because it was sick of it, like a peevish child. How untrustworthy is such a mind was exhibited at Carnegie Hall, when I heard Mr. Roosevelt say that it took six years to amend the constitution of the State of New York, when he, an ex-governor, ought to know that it takes three, yet the influence of his argument was that his audience demanded amendment, and that quickly.

Every utterance from this socialistic side is a demand for the amendment or abrogation of the constitutions of state and nation, because restrictions are irksome to its passion. Of course they are irksome. They were framed to be irksome to all impetuous minds and a check upon half-thought out ideas.

WM. BARNES, JR.

*Speech at Republican Club,
New York, May 16, 1912.*

WHAT WISDOM CREATES FOLLY MAY DESTROY

For after all, there is a public conscience which neither flattery nor self interest can subdue. And the salvation of that public conscience is in the fact that its innumerable roots reach down and are sustained and invigorated by the individual character. If the individual is right the country will not go wrong.

Relying on this belief I submit to those who care to know it, my candid disapproval of certain methods which now seem widely favored. I do not believe that public policies should change like moving pictures. It will be a costly and hazardous step if the American people permanently discard the safe and deliberate methods of government for the changing and hysterical attractions of pictorial statesmanship.

No policy is good for much which is voted on every day. It would be as wise for a farmer to pull his crops up every night to see how they get along. Nothing will do well unless tended and given time to grow.

It has taken the American people many years of arduous, bloody and expensive labor to reach the spot where they now stand. They are rich and great, but no wealth was ever so expansive and no power so secure that those who gained them by wisdom and toil could not destroy them by idleness and folly. The exactions of virtue are many and strict, and its rewards are ample, but by one lapse or blunder the fame of a lifetime will fall in a night. You may raise the monuments of your industry till they touch the skies: the flame of one match will lay them at your feet. If you would continue your power you must hold fast to the things that gave it to you.

HON. FRANK S. BLACK.

*Before The Middlesex Club,
Boston, April 30th, 1910.*

POLITICAL LEADERS

Notwithstanding the popular cry against political leaders, the fact remains that they are leaders because of their knowledge of political conditions, their knowledge of human nature and their ability to think, reason and arrive at correct conclusions.

They are leaders for these reasons and for the further reason that they know how to make friends and retain them. They make friends because they have warm hearts and real red blood. They make friends by helping others and they retain friends by keeping their word and being loyal to their friends and their party.

Not only this, but leaders are evolved; they cannot be made by law. They can only be made by the common consent of the people and their political associates. A man becomes a leader by reason of

his individuality, his talent, his energy, his sound judgment and his common sense and by reason of his ability to read and understand human nature and correctly gauge public sentiment. He becomes a leader by reason of his acquaintances, his friendships, his qualities of heart, mind and character, and you can no more legislate a leader's friendships away from him, you can no more abolish his friendships and influence by legislation, than you can legislate one of the planets out of the heavens, or darken the sun by an act of the legislature.

And in this connection I want to say that when a man starts out to rail against bosses, it is a sure sign that he has the boss bee buzzing busily in his own hat.

Goethe had this class in mind when he said:

Don't be disturbed by the barking;

Remain in your places.

The barkers eagerly wish for your seats,
There to be barked at themselves."

CHARLES H. BETTS.

Speech at Lyons, Oct. 9, 1910.

THOUGHTS ON GOVERNMENT

Politicians have in all ages, disputed much about the best form of government, without considering that each different form may possibly be the best in some cases, and the worst in others.

* * *

To take the term in its strictest sense, there never existed, and never will exist, a real democracy in the world. It is contrary to the natural order of things, that the majority of a people should be the governors, and the minority the governed. It is not to be conceived that a whole people should remain personally assembled to manage the affairs of the public; and it is evident, that no sooner are deputies or representatives appointed, than the form of the administration is changed.

It may be laid down indeed as a maxim, that when the functions of government are divided among several courts, that which is composed of the fewest persons will, sooner or later, acquire the greatest authority; though it were for no other reason than the facility with which it is calculated to expedite affairs.

* * *

To this it may be added that no government is so subject to civil wars and intestine commotions as that of the democratical or popular form; because no other tends so strongly and so constantly to alter, nor requires so much vigilance and fortitude to preserve it from alteration.

* * *

The more a numerous people are collected together, the less can the government assume over the sovereign; the chiefs of a faction

may deliberate as securely at their meetings, as the prince in his council, and the mob are as readily assembled in the public squares, as the troops in their quarters. It is the advantage of a tyrannical government, therefore, to act at great distances; its force increasing with the distance, like that of a lever, by the assistance of a proper center. That of the people, on the contrary, acts only by being concentrated; it evaporates and loses itself when dilated, even as gunpowder scattered on the ground, takes fire particle by particle, and is productive of no effect.

* * *

Among the Greeks, whatever the people had to do, they did it in person; they were perpetually assembled in public. They inhabited a mild climate, were free from avarice, their slaves managed their domestic business, and their great concern was liberty. As you do not possess the same advantages, how can you expect to preserve the same privileges? Your climate being more severe, creates more wants; for six months in the year your public squares are too wet or cold to be frequented; your hoarse voices cannot make themselves heard in the open air; you apply yourselves more to gain than to liberty, and are less afraid of slavery than poverty.

* * *

Did there exist a nation of gods, their government would doubtless be democratical; it is too perfect a form, however, for mankind.

ROUSSEAU.

Social Contract.

A LITTLE SOUND PHILOSOPHY

Now, lastly, the surplus is passing into a new class, the large business speculator, the financier, and trust-man. So far as we can yet see, this class is justifying itself far more than the middle class. In fifty years the middle classes have not given as much to endow education as the millionaires have given in five years. A man with a gigantic income cannot spend more than a few percent of it on himself. He must use it for large public enterprises which benefit mankind. To put it in another form, a great dealer has organized a method for taxing the community in such a way that they do not notice it and if he spends the tax on public improvements or endowments—railways, new inventions, or universities—he is an active benefactor to the whole community. He sponges up the surplus which would otherwise be frittered away in ostentation or luxury, and drops it where it is a permanent benefit. As a principle we may hate the trust-man and multi-millionaire, but he may be a lesser curse than the extravagant middle or lower-class man. War is hateful, but it may be a lesser curse than rotting in peace. So long as the average man shows by his selfish luxury that he is incapable of managing wealth, so long the private taxer—who prevents some of the waste—

will be a positive blessing to the community. The evolution of the great money-manager type now going on is a distinct step forward in the prevention of waste, and the growth of a better system of expenditure. A million pounds a year scattered over a hundred thousand men will be all eaten up in luxuries or lost in folly; spread among a thousand men it will only swell their wasteful pride of life; but put it in the hands of ten men who have worked for it, and they will spend most of it in useful work that will bear fruit. Until the education, moral and intellectual, of the average man is on a higher plane, it will be well for the surplus wealth to be in the safer hands of those who have proved their capacity for avoiding waste. The evolution of society is not fitted at present for a wealthy middle class, or a proletariat domination.

We have now seen in many directions how great are the changes in the constitution of society, which are brought about by a succession of small movements, each of which imperceptibly bears its share in the change. We see thus how carefully small tendencies should be watched; and we learn how needless and often how futile is a violent uprooting of institutions instead of a gradual growth.

Another lesson to note is that every attempt to interfere by legislation in the natural working of causes is more likely to do harm than good. The long lesson, which it took all the middle ages to teach, was that legislative interference with trade always did harm; we have come to believe that in a half-hearted way, but we are still perpetually longing to tinker society by interfering with natural cause and effect.

W. M. FLINDERS PETRIE.

Janus, in Modern Life, pp. 62, 63, 64.

ELECTION OF A PRESIDENT TO TEST THE CONSTITUTION

If ever the tranquillity of the nation is to be disturbed and its liberties endangered by a struggle for power, it will be upon the very subject of the choice of a President. This is the question that is eventually to test the goodness and try the strength of the Constitution, and if we shall be able for half a century hereafter to continue to elect the chief magistrate of the Union with discretion, moderation, and integrity we shall undoubtedly stamp the highest value on our national character.

CHANCELLOR KENT.

See James Ford Rhodes' Historical Essays, p. 219.

FRANKLIN FEARED A MONARCHY

Sir, there are two passions which have a powerful influence on the affairs of men. These are ambition and avarice; the love of power, and the love of money. Separately, each of these has great

force in prompting men to action; but when united in view of the same object, they have in many minds the most violent effects. * * * And of what kind are the men that will strive for this profitable pre-eminence, through all the bustle of cabal, the heat of contention? The infinite abuse of parties, tearing to pieces the best of characters? It will not be the wise, and moderate, the lovers of peace and good order, the men fittest for the trust. It will be the bold and the violent, the men of strong passions and indefatigable activity in their selfish pursuits. These will thrust themselves into your government, and be your rulers. * * *

There is scarce a king in an hundred, who would not, if he could, follow the example of Pharaoh, get first all the people's money, then all their lands, and then make them and their children servants forever.

It will be said, that we do not propose to have kings. I know it; but there is a natural inclination in mankind to kingly government. It sometimes relieves them from aristocratic domination. They had rather have one tyrant than five hundred. It gives more of the appearance of equality among citizens; and that they like. I am apprehensive, therefore, perhaps too apprehensive, that the government of these states may in future end in a monarchy. But this catastrophe I think may be delayed, if in our proposed system we do not sow the seeds of contention, faction and tumult, by making our positions of honor places of profit.

DR. BENJAMIN FRANKLIN.

Madison's Journal of Constitutional Convention, pages 92-3.

WASHINGTON FEARED A DICTATOR ON THE RUINS OF PUBLIC LIBERTY

Towards the preservation of your government and the permanency of your present happy estate, it is requisite, not only that you speedily discountenance irregular oppositions to its acknowledged authority, but also that you resist with care the spirit of *innovation* upon its principles, however specious the pretexts. One method of assault may be to effect, in the forms of the constitution, alterations which will impair the energy of the system; and thus to undermine what cannot be directly overthrown. In all the changes to which you may be invited, remember that time and habit are at least as necessary to fix the true character of governments, as of other human institutions; that experience is the surest standard, by which to test the real tendency of the existing constitution of a country; that facility in changes, upon the credit of mere hypothesis and opinion, exposes to perpetual change, from the endless variety of hypothesis and opinion.

* * *

The alternate domination of one faction over another, sharpened

by the spirit of revenge, natural to party dissension, which, in different ages and countries, has perpetrated the most horrid enormities, is itself a frightful despotism. But this leads, at length, to a more formal and permanent despotism. The disorders and miseries, which result, gradually incline the minds of men to seek security and repose in the absolute power of an individual; and sooner or later, the chief of some prevailing faction, more able or more fortunate than his competitors, turns this disposition to the purposes of his own elevation on the ruins of public liberty.

GEORGE WASHINGTON.

From Farewell Address

LINCOLN SPOKE WITH THE SPIRIT OF PROPHECY

Many great and good men, sufficiently qualified for any task they should undertake, may ever be found, whose ambition would aspire to nothing beyond a seat in Congress, a gubernatorial or a presidential chair. But such belong not to the family of the lion or the brood of the eagle. What? Think you these places would satisfy an Alexander, a Caesar, or a Napoleon? Never! Towering genius despairs a beaten path. It seeks regions hitherto unexplored. It sees no distinction in adding story to story upon the monuments of fame erected to the memory of others. It denies that it is glory enough to serve under any chief. It scorns to tread in the footsteps of any predecessor, however illustrious. It thirsts and burns for distinction; and, if possible, it will have it, whether at the expense of emancipating slaves or enslaving free men. Is it unreasonable, then, to expect that some men, possessed of the loftiest genius, coupled with ambition sufficient to push it to its utmost stretch, will at some time spring up among us? And when such a one does, it will require the people to be united with each other, attached to the government and laws, and generally intelligent, to successfully illustrate his design.

Distinction will be his paramount object, and although he would as willingly, perhaps more so, acquire it by doing good as harm, yet that opportunity being passed, and nothing left to be done in the way of building up, he would sit down boldly to the task of pulling down. Here, then, is a probable case, highly dangerous, and such a one as could not well have existed heretofore.

ABRAHAM LINCOLN.

Speech at Springfield, 1837.

THE POLITICAL VALUE OF HISTORY

The immensely increased prominence in political life of ephemeral influences, and especially of the influence of a daily press; the immense multiplication of elections, which intensifies party conflicts, all tend

to concentrate our thoughts more and more upon an immediate issue. They narrow the range of our vision, and make us somewhat insensible to distant consequences and remote contingencies. It is not easy, in the heat and passion of modern political life, to look beyond a parliament or an election, beyond the interest of a party or the triumph of an hour. Yet nothing is more certain than that the ultimate, distant, and perhaps indirect consequences of political measures are often far more important than their immediate fruits, and that in the prosperity of nations a large amount of continuity in politics and the gradual formation of political habits are of transcendent importance. History is never more valuable than when it enables us, standing as on a height, to look beyond the smoke and turmoil of our petty quarrels, and to detect in the slow developments of the past the great permanent forces that are steadily bearing nations onward to improvement or decay.

The strongest of these forces are the moral ones. Mistakes in statesmanship, military triumphs or disasters, no doubt affect materially the prosperity of nations, but their permanent political well-being is essentially the outcome of their moral state. Its foundation is laid in pure domestic life, in commercial integrity, in a high standard of moral worth and of public spirit; in simple habits, in courage, uprightness, and self sacrifice, *in a certain soundness and moderation of judgment, which springs quite as much from character as from intellect*. If you would form a wise judgment of the future of a nation, observe carefully whether these qualities are increasing or decaying. Observe especially what qualities count for most in public life. Is character becoming of greater or less importance? Are the men who obtain the highest posts in the nation men of whom in private life and irrespective of party *competent judges* speak with genuine respect? Are they men of *sincere convictions, sound judgment, consistent lives, indisputable integrity*, or are they men who have won their positions by the *arts of a demagogue or an intriguer; men of nimble tongues and not earnest beliefs—skilful, above all things, in spreading their sails to each passing breeze of popularity?* Such considerations as these are apt to be forgotten in the fierce excitement of a party contest; *but if history has any meaning*, it is such considerations that affect most vitally the permanent well-being of communities, and it is by *observing this moral current* that you can best cast the horoscope of a nation.

WILLIAM EDWARD HARTPOLE LECKY.

Historical and Political Essays, pp. 40, 41, 42.

CONCLUSION

In conclusion, attention should be directed to this vivid picture, drawn by the pen of one of the most brilliant and accurate writers in all history, of the conditions which presage the decline and decay of a nation. The conditions as described have a special application to

this country at the present time as a result of the revival of the impractical and primitive system of a pure democracy. "*Insincerity, pretense, intrigue, and nimble tongued demagogues*, spreading sails to each passing breeze" are the order of the day. This enables the student of history to "cast the horoscope" of the present drift of this nation. Pure democracy is the promoter of strife, contention and corruption. It makes conditions which lead self-respecting men of character and standing and the ablest and best statesmen to retire from public life because they do not care to enter a "rough and tumble" contest against money, venality and ignorance where prize ring methods become the highest ideals. It creates conditions in which demagogues spring up, multiply and flourish like "mushrooms on a rich and rotten bed of earth." It is a form of government, which by its attempted "rough and tumble" mass action, was the rock on which all of the ancient republics were wrecked.

The Ancients had never discovered a workable system of government between the *extremes* of a pure democracy which was a failure, and an aristocracy or a monarchy, both of which curtailed individual liberty and denied to the great mass of the people a controlling voice in the affairs of their government.

The statesmen who founded the American republic were the first practical exponents and founders of a free representative democracy, which has proved its adaptability to any and every extent of territory and population, and which at the same time, guards and protects individual liberty and gives the people a controlling voice in the affairs of their government.

I have greater confidence in the wisdom of the fathers who founded this free republic than I have in the noise of their hysterical sons who are trying to destroy it.

I am opposed to the initiative, the referendum and the recall; these political fallacies are older than civilization and were conceived in ignorance of the science of government and born in the throes of hysteria and tumult.

I am opposed to a pure democracy, because, in the last analysis, it means democratic socialism and government by collective ignorance.

I am in favor of the American representative democracy, because it means *popular* rule by selected intelligence, through the chosen representatives of the people.

I believe that a representative democracy is the most scientific and beneficent government ever instituted among men when founded upon Madison's law of representation:

"The representation should be large enough to guard against the cabals of the few and small enough to guard against the confusion of the multitude."

This country is facing the greatest crisis since the civil war. We are on the eve of a political revolution. The fundamental principles of our government and the stability of our institutions are threatened by the wanton attacks of designing and ambitious demagogues. It is

just as important that every patriotic citizen should now spring to the defense of our representative institutions as it was for them to rush to the defense of the country when the Union was attacked by secession and treason. The treason of the present is as dangerous as the treason of the past. It is not as apparent to the average citizen but it is just as apparent to the student of history. The time has come for action. The time has come when every patriotic citizen should study the questions of the hour and prepare for the conflict.

In the present crisis, it will require all the intelligence, the patience and the wisdom of the American people, together with the highest statesmanship of our country, to solve the great problem which now confronts us. Government founded on law, order, stability and progress will be supported by every patriot but government by hysteria, tumult and anarchy will be supported by every demagogue and traitor.

The demand of the hour is:

“God give us men! a time like this demands
Strong minds, great hearts, true faith and ready hands;
Men whom the lust of office does not kill;
Men whom the spoils of office cannot buy;
Men who possess opinions and a will;
Men who have honor,—men who will not lie;
Men who can stand before a Demagogue,
And damn his treacherous flatteries without winking!
Tall men, sun-crowned, who live above the fog
In public duty and in private thinking.”

PARTY GOVERNMENT AND PARTY ORGANIZATION

The political parties which I style great are those which cling to principles more than to their consequences; to general, and not to special cases; to *ideas*, and not to men. These parties are usually distinguished by a noble character, by more generous passions, more genuine convictions, and a more bold and open conduct than the others.

Minor parties are, on the other hand, generally deficient in political faith. As they are not sustained or dignified by a lofty purpose, they ostensibly display the egotism of their character in their actions. They glow with a factious zeal; their language is vehement but their conduct is timid and irresolute. The means they employ are as wretched as the end at which they aim.—*Detocqueville Democracy in America*.

I believe in party government and party organization. Without cohesion and concentration of energy and ability there can be no great achievements. In a republic like ours—the only instrumentality, the only agency through which the government can be administered, is through the agency of a political party.

Burke tells us that

“A political party is a body of men united for promoting by their joint endeavors the national interest upon some particular principles in which they are all agreed.”

And then he says:

“It is the business of the speculative philosopher to mark the proper ends of government. It is the business of the politician, who is the philosopher in action, to find out proper means toward those ends, and to employ them with effect.”

The New York Times, on May 16, 1908, contained an editorial from which I quote the following:

“It may be said that the expectation of office is not the noblest motive of political action, but a party policy that does not contemplate the raising of the leading men of the party to places of honor and influence is senseless and without any reason for existence.

“Parties wither away when the distinction and the honors of public life are put beyond the reach of their men of character, ability and ambition. The hope of such distinction is a stimulus, not only to party zeal and loyalty, but to individual effort and development. It produces great men.”

No greater crystallization and condensation of true political philosophy was ever contained in fewer words.

I am a partisan. The neuter gender is as unpopular and unproductive in politics as in nature. Neutrality is a negative, denatured force, which always spells failure. Partisanship is vitalized energy. It is the mainspring of action, ambition and achievement.

I want to say a word right here in regard to the much abused political organizations, which are the modern outgrowth of political evolution.

Professor Ford, of Princeton University, speaking of the changed political conditions and the evolution and growth and strength and power of political organizations says:

"Nowhere else in the world, at any period, has party organization had to cope with such enormous tasks as in this country, and its efficiency in dealing with them is the true glory of our political system.

"This conclusion may be distasteful, since it is the habit of the times to pursue public men with calumny and detraction; but it follows, that when history comes to reckon the achievements of our age, great party managers will receive an appreciation very different from what is now accorded to them."—(Ford's *Rise and Growth of American Politics*. Page 310.)

The great mass of the rank and file of all parties do not aspire to public office. They are occupied with their own personal and private business, but they are true and loyal to their party because they believe in its principles and policies and because they admire its leading statesmen, love its traditions and take a patriotic pride in its record and achievements. They will sometimes become temporarily infatuated with a certain man whom they have elected to office, but as soon as they discover he is exploiting his own personal fortunes at the expense of the party, their infatuation fades away and they return to their first love—to their party—and they continue to remain true and loyal to it.

Loyalty is the corner stone of character. It is the sublime rock upon which all other virtues rest. Remove it, and all other virtues decline and die in weeds and dust.

He who is true and loyal to his friends, his party, his principles and his ideals, is a good and stable citizen, and it is upon the shoulders of such citizens that the Republic must rest, and it is upon their reliability and solidity of character that the stability and perpetuity of the Republic itself depends.

This Republic, if it is to endure, must have something more substantial and secure to rest upon than the ever changing political weather cocks, who shift with every breeze, like willows in the wind.

I agree with former Governor Black when he says:

"The sound of water does not necessarily mean the ocean."

And notwithstanding the cackle of the mugwumps and the noise of the demagogues, the political wrecks—the disloyal wrecks, strewn along the political highway, from Greeley down to date, bear eloquent and conclusive testimony to the fact that in this moral, this civilized, this enlightened age, party *treason* has not yet become a *virtue* and party *loyalty* has not yet become a *crime*, and they never will become so, as long as reason is the torch that lights and patriotism is the motive that moves mankind to political action.

CHARLES H. BETTS.

*Speech in Baptist Church, at Lyons,
Oct. 9, 1910.*

LAWS RELATIVE TO EMPLOYER'S LIABILITY AND WORKMEN'S COMPENSATION

It will be impossible to give this subject any thing like adequate treatment in the space at my disposal. The relations of employers and employes under our modern industrial development have become one of the most complex, important and difficult problems with which we have to deal.

When industries were small and carried on by individuals, and the relations of employer and employe were more intimate and personal, accidents were rare and the question of employer's liability was a simple matter. Under the Common Law of England and the United States, the legal relations of the employer and the employe, up to 1837, did not differ in any way from the legal relations of strangers, and there were no special rules as to the employer's liability. If "A" was hurt by "B's" neglect, "B" was bound to compensate "A," whether "A" was an employe or not. Therefore, the relations of employer and employe were the relations existing between all other persons.

This was the rule of the Common Law up to 1837, but since that time a great change has taken place. The rapidly increasing industrial development of the modern world has given rise to large business institutions and corporations, to concentration of capital, energy and ability, and to the carrying on of large enterprises and manufacturing establishments, which have entirely changed the relations of employer and employe by the introduction of machinery and other appliances used in manufacturing and other industries.

Therefore, under our modern industrial system, there has grown up what is called "extra-hazardous" employment. That is to say, there are industries in which employes are at work with certain kinds of machinery and appliances, which render their operation more or less dangerous. Owing to this fact the old rules of the Common Law were adapted to new conditions and in some instances were changed by the Courts and new rules were laid down governing the relations between employer and employe.

Under the Common Law rules, as modified by the courts and as

they have existed for a long time and as they now exist, the employer's duty to his employe is defined to be reasonable care for the safety of his employe while he is performing his work. This duty includes the following:

First,—The duty to provide a reasonably safe place to work.

Second,—The duty to provide reasonably safe tools and appliances.

Third,—The duty of being reasonably careful in hiring agents, and servants, fit for the work they are to do.

Fourth,—The duty of providing suitable rules for carrying on the work.

Under the present Common Law rules, as established or construed by the courts, if an employe is injured by the failure in any of these duties by the employer, the employe may recover full compensation for his injury, the amount to be determined by jury trial in an action at law. The right of action is here based on the employer's negligence or fault. This is the fundamental principle of the Common Law, as applied to injuries to employees, both in England and America, brought down from 1837 and now in force in the State of New York.

There have been, however, some modifications of this fundamental principle. The employer has certain defenses and may invoke certain rules as a bar to an action at law by an injured employe, which are very important and which constitute the court's modification of principle above stated and are therefore additions to the Common Law and have become what is known as court-made laws. Among this class of laws are the following:—

First; Contributory Negligence. If an employe who is injured has failed to use reasonable care himself and through such negligence becomes injured, he can not recover damages from his employer. The burden of proof rests upon the employe to show freedom from negligence in order to make out his case. The rule is that he must come into court with "clean hands"; that is, *free from fault*.

Second; Fellow Servant Rule. If an employe be injured by the negligence of a fellow servant, that act will bar his recovery against the employer at Common Law.

Third; Assumption of Risk. This important defense which an employer has under the Common Law is the assumption of risk by the employe. An employe entering employment is held to assume and consent to the ordinary and obvious risks incident to the employment, and if injured thereby can not recover from his employer for the or-

dinary risk of the occupation. Neither can he recover for the employer's neglect or violation of his duties, if the employe knew of such neglect or violation.

This Common Law system of employer's liability developed along the same lines, both in England and the United States, up to the time that the new element in the relations between employer and employe was injected into the industrial world by the invention and use of modern machinery.

This Common Law system, as it relates to employer's liability, has been changed in this state by legislation; first, by statutes which place new duties upon the employer; second, by statutes which increase the rights of the working man.

The labor law of 1897 in this state prescribed certain standards or methods of safeguarding work in certain employments, to which an employer must conform, and gave the Department of Labor power to compel compliance with that law.

In 1902, an employer's liability act was passed, designed to increase the rights of the working man. This law did not work satisfactorily and the Wainwright Commission appointed by the legislature in 1910, in a very exhaustive and able report upon this whole subject, speaking of the law, says:

“It is probably a correct statement that in more than 90% of the cases in which recovery would be possible under the act, it would be equally possible at Common Law, though this estimate is not susceptible of exact proof.”

The Commission then states that this law was modelled after the English act of 1880.

After these enactments the next act passed in response to general agitation was what is known as the Barnes Act, and it is Chapter 657 of the Laws of 1906.

Section 42-a of the Railroad Law, as added by this act, contains a provision that if an employe in the service of any railroad is injured by any defect in the ways, rules, machinery, plant, tools, etc., of the employer, when such defect could have been discovered by proper inspection, the employer shall be deemed to have had knowledge of the facts and further that the fact of the defect shall be *prima facie* evidence of the negligence of the employer. This act also modified the fellow servant rule as applied to railroads.

The act did not, however, bring the desired relief to the employe

which was contemplated, and the agitation continued for a more liberal employer's liability law, one that would be more favorable to the employe.

One reason for this continued agitation is the fact that in the trials of cases for accident, it was discovered that the injured employe hardly ever received a just proportion of the money actually paid by the employer for damages. As soon as this legislation was enacted, every time an accident occurred where a corporation or a manufacturer was involved, there was usually a lawyer immediately on the ground who interviewed the injured party as soon as the doctor—and sometimes sooner and secured from him a contract to take the case against the corporation, or the manufacturer, upon a speculative basis. This large and ever increasing class of lawyers is known as "ambulance chasers," and it was discovered that the employer's liability act, instead of actually giving adequate relief or benefit to the employe, in many cases enriched the lawyer, who received more than his just due of the money paid by the employer to his injured employe.

In addition to this it was discovered that the bringing of such actions always created friction and resulted in strained relations between the employer and the employe. About the only person benefited in the final result was the ambulance chasing lawyer.

This situation led to more agitation and a serious attempt to find some solution of the problem which would be fair and satisfactory both to the employer and the employe. As a result of this agitation a commission was appointed in this state under a bill introduced and passed by Assemblyman Cyrus W. Phillips, known as the Wainwright Commission, for the purpose of investigating the whole subject of employer's liability legislation in this and other countries with the view of trying to frame legislation which would more justly and adequately meet the situation. This commission conducted one of the most thorough, intelligent and exhaustive examinations of the question which has ever been conducted in this or any other country. Some of the information which I am presenting is drawn from that report, and I want to make acknowledgment of my obligation to this commission for many of the facts herein set forth.

When this commission had completed its investigation a bill was framed, introduced and passed in the New York State legislature, known as the Workman's Compensation Act. In fact, there were two such bills framed and passed, one was compulsory, the other voluntary. It was believed by the commission that the voluntary act would

meet the situation because it was thought it would be generally taken advantage of and make the compulsory act unnecessary, and besides there was doubt about the constitutionality of the last mentioned act. In its hope that the voluntary act would be taken advantage of by both sides, the commission was mistaken and was greatly disappointed. I am informed that there were practically no voluntary contracts made between employer and employe and that this provision of the act, though desirable in principle, has become a dead letter on the statute books because of the many and complicated details provided to carry it into effect.

The Workman's Compulsory Compensation Act was declared unconstitutional by the New York State Court of Appeals in a learned and exhaustive opinion, on the ground that it provided for the taking of the employer's property without "due process of law," and thereby violated the Constitution of the State.

This decision was rendered in what is known as the case of *Ives v. South Buffalo Railroad Company*, 201 N. Y., 271.

This decision of the Court of Appeals has been vigorously criticised and especially by former President Theodore Roosevelt, who has repeatedly made violent attacks upon the Court of Appeals of this state because of the decision rendered in this case. In his criticism of the court Col. Roosevelt does not seem to take into consideration that it is not the duty of the court to render decisions in accordance with the latest ideas of political agitators, or in harmony with public sentiment, but it is the sworn duty of the court to decide such cases in harmony with the constitution.

Whenever the constitutionality of a statute is called in question, it is the duty of the court to disregard all other considerations and decide the case solely upon the merits. If the act of the legislature violates a provision of the constitution, which the people themselves in their sovereign capacity have adopted, then the legislature transcends the limit of its power, and it is the duty of the court to declare such an act unconstitutional.

This is exactly what the New York State Court of Appeals did in the case under consideration. The Wainwright Commission, when this bill was framed and submitted to the legislature, in its report called attention to the provisions of the constitution of this state which prevent the enactment of legislation such as had been enacted along this line in foreign countries.

The leading lawyers of the legislature had doubt about the con-

stitutionality of the act. Governor Hughes, when he signed the bill, expressed a doubt as to its constitutionality. He said it was a close question as to its constitutionality and he had serious doubts about its being constitutional, but owing to the transcendent importance of the question, he would sign the bill and let the matter go to the courts so that the constitutionality of the act could be determined, because he said it was a question upon which the courts should pass so that if it was necessary in order to accomplish the desired result, a constitutional amendment might be submitted to the people.

Thus it will be seen that the framers of the law, that the leading lawyers in the legislature and Governor Hughes, all had doubt about the constitutionality of this act at the time it became a law. The decision of the Court of Appeals simply cleared up and confirmed that doubt.

I am calling attention to these facts for the purpose of showing the character of the unwarranted attack which has been made upon the New York State Court of Appeals by Col. Roosevelt.

I wish to call attention to the fact that after quoting at length from the report of the Wainwright Commission, the court said:

“This quoted summary of the report of the commission to the legislature, which clearly and fairly epitomizes what is more fully set forth in the body of the report, is based upon a most voluminous array of statistical tables, extracts from the works of philosophical writers and the industrial laws of many countries, all of which are designed to show that our own system of dealing with industrial accidents is economically, morally and legally unsound. Under our form of government, however, the courts must regard all economic, philosophical and moral theories, attractive and desirable though they may be, as subordinate to the primary question whether they can be moulded into statutes without infringing upon the letter or the spirit of our written constitutions. In that respect we are unlike any of the countries whose industrial laws are referred to as models for our guidance. In our country the federal and the state constitutions are the charts which demark the extent and the limitations of legislative power; and while it is true that the rigidity of a written constitution may at times prove to be a hindrance to the march of progress, yet more often its stability protects the people against the frequent and violent fluctuations of that which for want of a better name, we call public opinion. With this consideration in mind we turn to the purely legal phase of the controversy.”

It will be observed here that the learned court took into consideration all the facts based upon sociology and philosophy and industrial development, but the court properly *held* that its sworn duty was to consider only the legal phase of the controversy and determine whether or not the act was in violation of the constitution and infringed upon individual rights as guaranteed by that instrument. This position of the court is absolutely correct, political agitators to the contrary notwithstanding. Upon this point the court further says:

“In the Labor Law and the Employer's Liability Act, which define the risks assumed by the employe, there are many provisions which cast upon the employer a great variety of duties and burdens unknown to the Common Law. These can doubtless be still farther multiplied and extended *to the point* where they deprive the employer of rights guaranteed to him by our constitutions, and there, of course, they *must stop*.”

And then we come to the crucial point in this case and I quote the opinion of the court as follows:

“This legislation is challenged as void under the 14th amendment to the Federal Constitution, and under Section 6, Art I, of the State Constitution, which guarantee all persons against deprivation of life, liberty or property without due process of law. We shall not stop to dwell at length upon the definition of ‘life,’ ‘liberty,’ ‘property’ and ‘due process of law.’ They are simple and comprehensive in themselves and have been so often judicially defined that there can be no misunderstanding as to their meaning. Process of law in its broad sense means law in its regular course of administration through courts of justice, and that is another way of saying that every man's right to life, liberty and property, is to be disposed of in accordance with those ancient and fundamental principles which were in existence when our constitutions were adopted. Due process of law implies the right of the person affected thereby to be present before the tribunal which pronounces judgment upon the question of life, liberty or property in its most comprehensive sense; to be heard by testimony or otherwise, and to have the right of controverting by proof every material fact which bears upon the question of right in the matter involved. If any question of fact or liability be conclusively presumed against him this is not due process of law.”

Right here I wish to call attention to the fact that this act provided for making a certain class of employers responsible for injuries

to their employes, without regard to the negligence of the employer. *The employer was made liable for damages if he was himself free from fault and if his employe was not free from negligence.* This is a reversal of all former rules of law upon this question in this state and it applied only to employers who were conducting a certain kind of industries and thereby singled them out as a distinct class upon whom this new, extra and unusual burden was to be imposed.

Upon this question the court says:

“The several industries and occupations enumerated in the statute before us are concededly lawful within any of the numerous definitions which might be referred to, and have always been so. They are, therefore, under the constitutional protection. One of the inalienable rights of every citizen is to hold and enjoy his property until it is taken away from him by due process of law. When our constitutions were adopted it was the law of the land that no man who was *without fault or negligence could be held liable in damages for injuries sustained by another.* That is still the law, except as to the employers enumerated in the new statute, and as to them it provides that they shall be liable to their employes for personal injury by accident to any workman arising out of and in the course of the employment which is caused in whole or in part, or is contributed to, by the necessary risk or danger of the employment or one inherent in the nature thereof.

* * *

It is conceded that this is a liability unknown to the Common Law, and we think it plainly constitutes a deprivation of liberty and property under the Federal and State Constitutions, unless its imposition can be justified under the police power, which will be discussed under a separate head.”

And then the Court adds:

“We have already admitted the strength of this appeal to the recognized and widely prevalent sentiment, but we think it is an appeal which *must be made to the people* and not to the courts. The right of property rests not upon philosophical or scientific speculations, nor upon the commendable impulses of benevolence or charity.”

* * *

The right has its foundation in the fundamental law. That can be changed by the people, but not by the legislature.”

In a government like ours theories of public good or necessity are often so plausible or sound as to command popular approval, but the courts are not permitted to forget that the law is the only chart by which the Ship of State is to be guided. Law as used in this sense means the basic law and not the very act of the legislature which deprives the citizen of his rights, privileges or property. Any other view would lead to the absurdity that the constitutions protect only those rights which the legislatures do not take away. If such economic and sociological arguments as are advanced in support of this statute can be allowed to subvert the fundamental idea of property, then there is no property right entirely safe, because there is no limitation upon the absolute discretion of legislatures and the guarantees of the constitution are a mere waste of words."

And the Court adds:

"If it is competent to impose upon an employer who has omitted no legal duty and has committed no wrong, a liability based solely upon a legislative fiat that his business is inherently dangerous, it is equally competent to visit upon him a *special tax* for the support of hospitals and other charitable institutions, upon the theory that they are devoted largely to the alleviation of ills primarily due to his business. In its final and simple analysis, that is taking the property of "A" and giving it to "B" and that can not be done under our constitution."

It will be observed that the legislature, as the court well says, by a legislative fiat singled out a certain class of employers and attempted to impose a burden upon them which it imposed upon no other class of citizens. It attempted by this statute to impose a burden upon them and take their property for a purpose *for which no other man's property is taken*. This is clearly a violation of the constitutional guarantee of liberty, equality and property rights.

The court has rightly and justly held that this is taking property without "due process of law" and that it is a violation of the constitution, and the court points the way out of this difficulty by saying that if the people want such a law, and if such a law is desirable, and if our industries have developed to that point where such a law is necessary for the protection of the laboring man, then the *appeal should be made to the people* to change their constitution and *not to the courts* to change it, because the courts have no right or authority to change the constitution.

PUBLIC POWER OF THE STATE

It is contended by the defenders of the constitutionality of the act in question, that it falls within the police power of the state. They cite in confirmation of this theory the court decisions under the "Civil Damage Act," where liquor dealers and their landlords are held liable for damages resulting from injuries or crimes.

The contention is that the landlord is an innocent party, whose property is taken the same as it was proposed to take the employer's property under this act, who is innocent of any fault. The merest novice can see that these are not parallel cases and that they are clearly distinguishable.

In the case of the landlord who rents his place to a liquor dealer, he rents it to carry on a business that has no inherent rights,—it has only such rights as are given to it by the legislature,—it has no natural or inherent rights because it must first of all get permission from the state in the form of a license before it can be permitted to exist as a business.

Therefore, the landlord who rents his place to a liquor dealer for the purpose of carrying on such a traffic, knowing that the law imposes certain liabilities upon the business, has knowledge of the facts and becomes an accomplice in whatever injury results from the traffic and is equally liable with the liquor dealer himself.

The employer upon whom this statute sought to place a new liability when the employer was himself free from fault, is quite a different question than imposing a liability upon the owner of a place where liquor is sold with his knowledge and consent under the restrictions of the statute and who thereby becomes a party to the fault.

Not only this, but the employer affected by this statute, is engaged in a business that does not depend upon the legislature for its existence; and it is a business which the legislature can not take away from him, it does not have to obtain a license from the state, because it is protected by the Constitution as one of the inalienable rights of individual citizens to engage in such business.

Attention should be directed to the fact that this is a subject which is being considered in nearly every state in the Union and it has been the subject of agitation and legislation in nearly every European country. In England there are no constitutional limitations because the acts of Parliament are the "supreme law of the land," and the courts are not obliged to render decisions in accordance with a written constitution adopted by the people themselves, as are the courts in this country.

This is an important and growing question and there is no doubt that something should be done to afford better protection to the work-

ing man, who is employed in these hazardous industries, but the question is how to properly adjust the matter fairly and equitably between the employer and the employe.

If you make one liable for the faults of another, how can you reconcile that with justice? If you make an employer, who is free from fault, liable for the *negligence* of his employe, and for the fault of his employe, how can that be reconciled with justice? That is exactly what this statute did. There must be some other way to adjust this matter between the employer and the employe.

In Germany where they have made an intelligent and serious effort to solve this problem, they have established a compulsory insurance system, and the employer contributes a certain amount and the employe contributes a certain amount to create a fund to be available to relieve those who are injured by accident. This has been carried to the extent that both the ill and the injured are provided for. Upon this subject the Wainwright report says:

“The German system is dependent upon the workings of a highly organized bureaucratic government of vigorous central powers foreign to American ideas. The elements of error and the difference of the conditions do not admit of a didactic conclusion as to its merits when applied to another country.”

In England for a long time there were a certain number of industries, fifteen or twenty, which were put in the class of “hazardous” industries and the employer was made liable for injuries to the employe, but in that country all restrictions have now been removed and the law applies not only to industries, but to individuals.

If a laboring man’s wife becomes ill and he hires a woman to come in and do the house work for a day and in sweeping or dusting she happens to run a needle under her finger nail, and by carelessness, negligence or ignorance does not attend to it and blood poisoning sets in, the employer is liable and must pay the damage. This system comes home to the laboring man as well as to the manufacturer, the employer and every other citizen.

So you see that this is a difficult problem. It is one that requires much study, investigation and experiment to ascertain what an equitable arrangement would be between the employer and the employe to insure the employe against inevitable accidents. Nearly every state in the Union is experimenting along this line and it is to be hoped that some fair and equitable basis will finally be ascertained upon which

legislation can be enacted which will be reasonably satisfactory to both the employer and the employe.

The fair, equitable and friendly adjustment of the relations between capital and labor is the paramount problem of our age and the one which is knocking hardest at the door of our twentieth century civilization and demanding a solution.

LIABILITY OF EMPLOYER IN NEWSPAPER PLANTS

The Employer's Liability Law, passed in this state in 1910, being Chapter 352 of the laws of that year, made many changes in the relations between employer and employe, which affect newspaper plants as follows:

First,—An employer is liable for injury to an employe by reason of any defect in the ways, works, machinery or plant, which directly or indirectly causes an injury.

Second,—An employer is liable for an injury to his employe by reason of the negligence of a fellow servant, such as a foreman or any other person with authority to direct, control or command any employe in the performance of his duties.

Third,—The employe now assumes only the risk inherent in the business and no other. The assumption of risk on the part of the employe is so changed that the employe can recover damages from the employer even if the employe continues to work on a defective machine or appliance after he knows that it is defective. This is on the theory that it is the duty of the employer to repair or see to it that the defective machinery is repaired, and therefore, he must himself assume the risk.

But if such employe knows of such defect or negligence, and the employer did not know of such defect which caused the injury, and the employe failed within a reasonable time to give or cause to be given information thereof to the employer, or to some person superior to himself in the service of the employer, the employe in such case can not recover damages from his employer.

Fourth,—In case of an injury to the employe if the employer sets up the defense that the employe's negligence contributed to the accident, the burden of proof is now shifted from the employe to the employer. Under the Common Law the employe had to prove himself free from negligence in order to recover damages. The statute of 1910, chapter 352, reverses this rule of the Common Law.

Fifth,—An agreement made between the employer and employe

relieving the employer of liability under the Common Law has been held by the courts to be void in the case of *Johnson v. Fargo*.

Sixth,—If an employer sets an employe at work or causes him to be set at work on a machine or a press without giving or causing him to be given sufficient instructions to operate the machine or press properly, the employer is guilty of negligence and liable for damages.

There is another thing in connection with the decision in the Ives case to which I desire to call attention. That is the fact that since the Court of Appeals handed it down, nearly every state which has enacted workmen's compensation laws, has moulded its statutes in harmony with it, thereby recognizing the fact that it is a sound decision.

The states of New Jersey, Massachusetts, Wisconsin, Illinois, Ohio, Michigan, Kansas and California have all passed workmen's compensation acts since the Court of Appeals handed down this decision and not one of these states has passed a compulsory act like the New York State act which the Court of Appeals declared unconstitutional.

Every one of these states has passed an optional or elective compensation act which requires the consent of both the employer and the employe. It is significant that these so-called progressive states have moulded their workmen's compensation acts in harmony with the New York State Court of Appeals' decision. No higher tribute could be paid to that decision than to have these states recognize its legality and mould their statutes in harmony with it. This fact alone should forever silence any further criticism of this decision.

CONCLUSION

In conclusion I wish to say, that in accordance with the decision of the Court of Appeals, the New York State legislature, at the last session, passed a constitutional amendment, introduced by Assemblyman Cyrus W. Phillips, who was a member of the Wainwright Commission, which is designed to meet this new industrial situation, and when it passes the next legislature it will then be submitted to the people and the people themselves will have a chance to *rule* upon this question in the regular, orderly and legal manner prescribed by law.

The people have some rights which even political agitators are bound to respect. The people have a right to amend their own constitution and this right should never be taken from them by the courts, even to gratify the conceit of demagogues, who vainly imagine that they alone represent the "whole people."

I heartily endorse the position of Col. Roosevelt when he says:

“I suppose it is necessary for me to reiterate what I have so often said; that I hold the judiciary of the Nation in very high regard; that I think the average judge is a better public servant than the average executive or legislative officer.”

(Outlook, p. 52, May 13, 1911)

I am glad to state that Col. Roosevelt has said the right thing on the right side of this subject and on nearly every other subject, but I regret to say that with equal versatility he has said the wrong thing on the wrong side of nearly every conceivable subject. It is his boundless versatility in advocating all sides of every question that has resulted in his unprecedented popularity, which has given him such a mighty influence for good and evil. When he exerts his influence to undermine public confidence in our courts of justice he becomes an evil genius who with ruthless hands, is trying to pull down the pillars of the Republic.

It is unfortunate that we have in this country ambitious political agitators and office seekers who pose as the only friends of the people and who are in such a hurry to change and amend our constitution that they can not wait for it to be done by the people in the regular and legal way.

When the political exigencies of the hour require the putting through some scheme “to catch votes” and when they are confronted with such a situation they are willing to “throw constitutions out of the window.”

When some court stands between the people and the legislature and declares that the legislature can not *usurp* and exercise the power and authority reserved exclusively to the people themselves in their written constitution these impatient political agitators at once begin to attack and condemn the courts for not being guided by personal whims instead of the constitution.

Some of these political agitators, who call themselves reformers, have such supreme confidence in their own virtue and wisdom, that they have come to regard their own personal whims as permanent and eternal truths, and they expect judges to acknowledge such whims as the “supreme law of the land.” When the courts refuse to accept them as such they swear at and abuse the courts and declare that the judges have become “fossilized” and are no longer “fit to sit upon the

bench," and then demand the recall of judges and court decisions by a majority vote.

I am opposed to the recall of judges and court decisions by a majority vote. I am opposed to any system that would tend to threaten or destroy the independence of the judge upon the bench. I am in favor of an independent and fearless judiciary because it is the citadel of liberty and justice. Therefore, I am emphatically opposed to any doctrine which proposes to make the confusion of the multitude the final interpreter of the law, and the passion of the populace the final arbiter of justice

COL. ROOSEVELT AND COURT DECISIONS*

BY P. TECUMSEH SHERMAN

It seems to me that in recent criticisms of decisions by our New York Court of Appeals Mr. Roosevelt has indulged in statements which, if he has been correctly reported, are inexcusably inaccurate.

1. Referring to the Matter of Jacobs (98 N. Y., 98), wherein the Court of Appeals held unconstitutional Chapter 272 of the Laws of 1884, which forbade the manufacture of tobacco on any part of a floor used for living purposes in any tenement house in a city having over 500,000 inhabitants, Mr. Roosevelt is reported to have said:

The decision of the court in this case retarded by at least twenty years the work of tenement reform and was directly responsible for causing hundreds of thousands of American citizens now alive to be brought up under conditions of reeking filth and squalor, which immeasurably decreased their chance of turning out to be good citizens.

That that decision was responsible for any such consequences as Mr. Roosevelt asserts is absurd. What it held was, in brief, that people have a right to work in their homes and that the Legislature may not interfere with the exercise of that right except so far as may be reasonably necessary for the public health, safety, &c., and that the act in question, purporting to be for the public health, was not a reasonable regulation for that purpose, because it arbitrarily selected one article and forbade its manufacture under certain conditions, not generally unsanitary, whether unsanitary or not. As a matter of fact the act was not designed to protect health but to put out of business one set of competitors in a trade war; but of that fact the court neither had nor took notice.

That this decision did not retard the work of tenement reform "by at least twenty years" and that it did not prevent the Legislature from forbidding the manufacture of tobacco or anything else in tenement homes "under conditions of reeking filth and squalor," is mani-

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fest from the fact that seven years later the Legislature, by Chapter 673 of the Laws of 1892, empowered the Factory Inspector to regulate the manufacture of many things, tobacco included, in tenement houses throughout the State and to prevent such manufacture wherever unsanitary. And this later act, strengthened and enlarged by subsequent amendments, is still the law (Labor Law, Section 100), and is of unquestioned constitutionality.

So far, then, from having done harm in the way of sanitary reform the decision in the Jacobs case has done good by giving the reform a proper direction and object. Mr. Roosevelt's criticism receives a ready chorus of approval from a large body of ill informed reformers who seek to prevent some of the evils of "sweating" by arbitrarily forbidding all home manufacture in tenements. But the vast majority of tenement houses in New York are of the class better described as apartment houses, which are perfectly sanitary, and in such houses there is much home work of a good kind, such as fine sewing, art work, &c., and under good conditions; and it would be a deplorable and unnecessary interference with liberty to forbid such work as an incident to the prevention of home work in unsanitary slums.

2. Mr. Roosevelt is reported as saying also:

When the Legislature of New York passed a law limiting the hours of labor of women in factories to ten hours a day for six days a week and forbade their being employed after 9 in the evening and before 6 in the morning the New York Court of Appeals declared it unconstitutional.

The Court of Appeals did not do that. It did not hold the provision forbidding the employment of women more than ten hours a day or six days a week to be unconstitutional. On the contrary that provision has been uniformly sustained and enforced by the courts. And it is also the law of New York to-day, and of unquestioned constitutionality, that female minors under twenty-one years of age may not be employed in a factory before 6 A. M. nor after 9 P. M. (Labor Law, Section 77).

What the court did hold to be unconstitutional was so much of the statute as forbids the employment of *adult* women in factories after 9 P. M. or before 6 A. M. (People vs. Williams, 189 N. Y. 131). The effect of a contrary decision would have been to deprive adult women of the right to employment in many well paid occupations, with short hours of labor, but wherein it is occasionally necessary to

work until 10, 11 or 12 o'clock in the night. And the arbitrariness of such a prohibition is shown by the fact that such women are allowed by law to work at all hours of the night in other occupations and under worse conditions, provided that the work is not in a factory. This particular form of prohibition of night work was copied from foreign laws, wherein it was designed to stop the employment of night shifts of women in mills, &c. No such condition existed or exists in New York. If the practice of employing night shifts of women in factories should arise in New York the decision in the Williams case does not stand in the way of appropriate legislation to prohibit it.

3. Mr. Roosevelt is reported as saying also that the New York Legislature passed a law to prevent the employment of men in filthy cellar bakeries for longer than ten hours a day, but that the courts have held it unconstitutional. In this instance it is really the United States Supreme Court that is in contempt of the Colonel. The facts are that the Legislature passed an act (Labor Law, Section 110; Laws 1897, Chapter 415), forbidding employment in any bakery or confectionery—whether filthy or the contrary—for more than ten hours a day; that the New York Court of Appeals (People vs. Lochner, 177 N. Y. 145) sustained its constitutionality, but that the United States Supreme Court (Lochner vs. New York, 198 U. S. 45) held that in the absence of any evidence that baking *per se* is a particularly unhealthy occupation the imposition of a special restriction upon the hours of work in that occupation constituted an unnecessary, arbitrary and unreasonable interference with freedom to labor or to contract for services.

Mr. Roosevelt has scoffed at this doctrine on the ground that the freedom to labor sought to be protected by the court is really "freedom to be compelled to work long," and not freedom to work long voluntarily. But in fact the restriction would interfere with liberty to work no matter how freely; and unless the power of the Legislature to interfere with such liberty is restricted to the enactment of regulations reasonably necessary for the public health, safety, &c., there is no limit on its power, and it may arbitrarily or in the interests of special classes regulate our lives and conduct in any respect. That is exactly what the Bill of Rights in our Constitution was meant to prevent. There is nothing in this decision to prevent the Legislature from regulating or prohibiting labor in vile cellar or other unsanitary bakeries. On the contrary, there has long been in force a statute of unquestioned constitutionality (Labor Law, Section 114) which authorizes the Com-

missioner of Labor by summary process to close up any bakery that is unsanitary.

4. Mr. Roosevelt is reported as saying also:

The courts hold unconstitutional the law under which a girl was endeavoring to recover damages for the loss of her arm because dangerous machinery was unguarded.

This assertion is a vague appeal to prejudice, and its particular reference is uncertain. It conveys the impression that some courts, in some cases, have held a statute to be unconstitutional because it made an employer liable for damages for failure to guard his machinery. There is certainly no decision of the kind by the higher courts of New York, and probably none by any American court. On the contrary, our courts generally have interpreted the law in this respect so far in favor of injured workmen that an employer who has done his level best in safeguarding his machinery may nevertheless be held liable in punitive damages if a sympathetic jury, against the preponderance of evidence and contrary to the prevailing opinion of experts decides that he might have guarded it better.

5. Mr. Roosevelt is reported as saying also:

The workmen's compensation act but a year or two ago was declared unconstitutional by the courts of New York, though a directly reverse decision in precisely similar language has been rendered not only by the State courts of Iowa and Washington but by the Supreme Court of the United States.

I am among those who believe that the decision, and more particularly the opinions, of the New York Court of Appeals in the case referred to (*Ives vs. South Buffalo Railway Co.*, 201 N. Y. 271) were wrong. But no degree of dissatisfaction with that decision can excuse such glaring misstatements of fact as are contained in the foregoing quotation. There are some doctrines set forth in the opinions in the *Ives* case which it may be contended are directly contrary to doctrines laid down in opinions of the United States Supreme Court and of other courts. But that a decision directly the reverse of that of the New York Court of Appeals in the *Ives* case has been rendered by the Supreme Court of the United States or the courts of Iowa is wholly untrue, for the question decided in the *Ives* case has not yet been before those courts and there has been no decision by them on it. As to the merits of the decision there is a good deal to be said on both sides; but whatever is said should be confined to the truth.

All the statutes held unconstitutional in the decisions complained of by Mr. Roosevelt sought to make sweeping changes in our laws for the real or alleged purpose of remedying certain social evils which admittedly demand remedy. But those statutes were all more or less ill designed for their respective purposes and so framed as to cause incidentally a disproportionate amount of harm and injustice. By invalidating them the courts may have delayed partial relief, but they certainly have not prevented the adoption of true remedies for the evils aimed at; and by some of those decisions they have protected minorities from oppression and injustice under the false guise of statutory regulations for the correction of social evils.

P. TECUMSEH SHERMAN,

*Former New York State
Commissioner of Labor.*

NEW YORK, April 23, 1912.

WORDS OF COMMENDATION

My dear Mr. Betts: Your feelings regarding Mr. Roosevelt, as you state them seem almost identical with those which I hold, and your reply to him in the correspondence, seems to me admirable both as regards matter and manner.

Your attitude also, throughout the various questions incidentally touched upon, commends itself as thorough, sane and sound, and I am glad to see opinions which I hold stated with such clearness and cogency. Indeed, I can recall no general treatment of political questions in recent years which seem to me more likely to influence public opinion healthfully.

HON. ANDREW D. WHITE,
Former Minister to Germany.

My dear Mr. Betts: The Roosevelt-Betts letters on the New York State Court of Appeals decision, and the subject of Direct Nominations are particularly interesting. I congratulate you.

ALBERT SHAW,
Editor of Review of Reviews.

My dear Mr. Betts: I have received copy of your debate with Colonel Roosevelt and have read every word of it. You tell many truths in terse and vigorous language, which the people of the present time are trying to forget or ignore. I earnestly congratulate you.

MICHEAL E. DRISCOLL,
Member of Congress.

My dear Mr. Betts: Your letter contains a brilliant exposition of the fundamental principles which are at stake in the discussion.

I congratulate you upon your statesman-like grasp of a great issue.

A Justice of Court of Appeals.

My dear Mr. Betts: Your own letter to Mr. Roosevelt is the choice one of the entire collection. I have read it now twice and congratulate you most earnestly. It is a grand piece of work, statesman-like and convincing.

HON. HAL BELL,
Prominent New York Attorney

BETTS-ROOSEVELT LETTERS

A spirited and illuminating discussion of the decision of the Court of Appeals in the Workman's Compensation Case, direct nominations, a pure democracy and the American representative democracy, to which is added a timely discussion of court decisions affecting working men, by P. Tecumseh Sherman, former New York State Commissioner of Labor.

Of the Betts-Roosevelt letters, former Minister to Germany, Hon. Andrew D. White says:

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